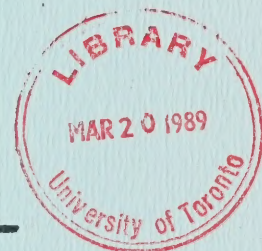


CA20N  
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-H26



# ENVIRONMENTAL ASSESSMENT BOARD



VOLUME: 79

DATE: Friday, March 3rd, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman  
E. MARTEL, Member  
A. KOVEN, Member

FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

**FARR &  
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

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Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Friday, March 3rd,  
1989, commencing at 8:30 a.m.

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VOLUME 79

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member







A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
MS. K. MURPHY )	
MS. Y. HERSCHER )	
MR. B. CAMPBELL )	MINISTRY OF ENVIRONMENT
MS. J. SEABORN )	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. J. WILLIAMS, Q.C.	ONTARIO FEDERATION OF
MR. B.R. ARMSTRONG	ANGLERS & HUNTERS
MR. G.L. FIRMAN	
MR. D. HUNTER	NISHNAWBE-ASKI NATION and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK )	FORESTS FOR TOMORROW
MR. R. LINDGREN )	
MR. P. SANFORD )	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
MR. D. WOOD )	POWER & PAPER COMPANY
MR. D. MacDONALD	ONTARIO FEDERATION OF LABOUR
MR. R. COTTON	BOISE CASCADE OF CANADA LTD.
MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES )	ASSOCIATION
MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	







APPEARANCES: (Cont'd)

MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK )	MUNICIPAL COMMITTEE
MR. D. SCOTT )	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS
	OF COMMERCE
MR. J.W. HARBELL)	GREAT LAKES FOREST
MR. S.M. MAKUCH )	
MR. J. EBBS	ONTARIO PROFESSIONAL
	FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM
	ASSOCIATION OF ONTARIO
MR. D. COLBORNE	GRAND COUNCIL TREATY #3
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	ABORIGINAL ASSOCIATION
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	ONTARIO SECTION)
MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN
	DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY
	ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON
	WATCHDOG SOCIETY
MR. R.L. AXFORD	CANADIAN ASSOCIATION OF
	SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF
	COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON





(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION





(iv)

I N D E X   O F   P R O C E E D I N G S

Scoping Session re: Panel 11 and Submissions  
By Counsel.....13215

Witness: Page No.

DAVID LOWELL EULER,  
PETER PHILLIP HYNARD,  
JOHN TRUMAN ALLIN,  
RICHARD BRUCE GREENWOOD,  
CAMERON D. CLARK,  
GORDON C. OLDFORD, Resumed 13298

Continued Direct Examination by Mr. Freidin 13298





I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
442	Letter dated February 22nd, 1989 from Houser, Henry, et al (counsel for MNR) to CELA (counsel for Forests for Tomorrow.	132452
443	Letter dated February 27, 1989 from the CELA (counsel for Forests for Tomorrow) to Houser, Henry, et al (counsel for MNR).	13246
444	Excerpt from the 1987 Annual Report of the Forest Products Accident Prevention Association.	13307
445	1987 Annual Report of the Forest Products Accident Prevention Association.	13310
446	Diagram depicting protection of advanced regeneration through full-tree harvest.	13316
447	Tape of video presentation on March 3rd, 1989 re: Logging Methods in Ontario produced by MNR.	13333
448	Diagram depicting forwarder and grapple skidder.	13337





1       ---Upon commencing at 9:10 a.m.

2                       THE CHAIRMAN: Good morning, ladies and  
3 gentlemen. Please be seated.

4                       The Board apologizes for the delay in  
5 starting this morning; however, we wanted to discuss a  
6 few matters which are relevant to this morning's  
7 proceedings.

8                       Now, the order of procedure for this  
9 morning will be as follows:

10                      We will commence with the scoping session  
11 of the Panel 11 witness statements of evidence and,  
12 once we have concluded that, the Board will issue its  
13 ruling with respect to the matters raised yesterday by  
14 Ms. Swenarchuk, and following that we will entertain a  
15 discussion of the manner in which Dean Baskerville will  
16 make an appearance before this Board.

17                      If at the conclusion of those three  
18 issues, plus one or two others that we think may come  
19 up, we have time to return to the witness panel, we  
20 shall continue on with the Panel 10 witnesses.

21                      MR. CASSIDY: Mr. Chairman, if I might  
22 speak to you on one matter. I would like to address  
23 the Board in respect of some interrogatories that have  
24 been filed by Forests for Tomorrow and I anticipate  
25 being very brief, but I would like to have that

1 opportunity.

2 They are interrogatories that relate to  
3 Panel 10 and I need to discuss those with you in  
4 advance of our cross-examination. I figured, since we  
5 are dealing with procedural matters, that there might  
6 be the opportunity to deal with those this morning.

7 THE CHAIRMAN: That's in reference to  
8 your letter?

9 MR. CASSIDY: Not my letter, the letter  
10 to MNR dated February 27th - I asked Mr. Mander to  
11 provide you with a copy - that was copied to you by the  
12 counsel for Forests for Tomorrow, dated February 27th.

13 THE CHAIRMAN: Yes, we have that.

14 MR. CASSIDY: Fine.

15 THE CHAIRMAN: Very well. We will deal  
16 with that after the Dean Baskerville matter.

17 MR. CASSIDY: Thank you.

18 THE CHAIRMAN: All right.

19 Ladies and gentlemen, with respect to the  
20 scoping of issues for Panel 11, the Board has reviewed  
21 the witness statements for Panel 11 and the statements  
22 of issue contained therein by the Ministry and all of  
23 the parties who filed statements of issue with the  
24 Board.

25 We must advise that there are one or two

1 parties that did not submit statements of issue with  
2 respect to Panel 11 because they had indicated that  
3 they will not be participating in terms of the Panel 11  
4 evidence.

5 Now, it is obvious to the Board that the  
6 intervenors consider most of the matters raised by the  
7 proponent in Panel 11 to be in issue and from our  
8 review of the documentation there appears to be little  
9 agreement amongst the parties with respect to issues  
10 which would not have to be addressed or addressed in a  
11 lot of detail at the hearing.

12 The only paragraphs that more or less  
13 fell into that category might have been paragraphs 27  
14 and 29 where three of the parties indicated that they  
15 were not particularly concerned with those issues, but  
16 the OFIA requested, with respect to both of those  
17 paragraphs, additional evidence in terms of  
18 examination-in-chief. So, effectively, we really  
19 didn't have much in the way of agreement on the part of  
20 the parties.

21 But I might add, from the Board's  
22 perspective, we are not surprised because we fully  
23 realize and appreciate that the subject of renewal is  
24 of prime importance to all of the parties and is an  
25 issue that goes to the heart of the application before



1 the Board.

2 It is, therefore, appropriate that the  
3 evidence to be given by this panel be developed fully  
4 and be subjected to extensive cross-examination and the  
5 Board intends to allow considerable latitude in this  
6 regard.

7 One of the few areas, though, in this  
8 evidence that, in the Board's view, has been covered in  
9 previous panels to a considerable extent is Document  
10 No. 5 in Volume II and that is a report I believe by  
11 Mr. Greenwood and, in fact, some of the items covered  
12 by this report is dealt with in Panel 10's evidence.

13 We appreciate that Document No. 5  
14 provides a synthesis of evidence previously given.  
15 However, the Board is of the view that that document  
16 should be covered in direct examination in more or less  
17 a summary fashion, as it doesn't appear to us to  
18 contain really anything that is substantially new to  
19 what we have already heard.

20 All of the parties, of course, will be  
21 allowed to cross-examine on this document to the extent  
22 that they feel necessary. But that appeared to be, to  
23 us, the only area that might be the subject of a  
24 reduction in the time for the oral examination.

25 However, we realize that the matters even

1 covered in that document - although covered before, in  
2 our view, to some extent - are brought together in a  
3 paper which synthesizes some of that previous  
4 information. So we are not saying, Mr. Freidin, that  
5 you know, Mr. Greenwood can't present oral evidence on  
6 that document.

7 MR. FREIDIN: I would just like you to  
8 say that he doesn't have to be cross-examined, Mr.  
9 Chairman.

10 THE CHAIRMAN: I am sure he will be  
11 cross-examined. What we are saying is, is the parties  
12 who have read the document I think will appreciate that  
13 a lot of the information contained therein has been put  
14 before the Board by other witnesses in other panels.  
15 There doesn't appear to be a lot of new evidence in  
16 relation to the subject matter of Document 5.

17 Most of the rest of the evidence of Panel  
18 11 does appear to be essentially new evidence and, as a  
19 result of that - and it deals with an important issue,  
20 that of renewal - we don't expect that it would serve  
21 the Board's purposes, nor that of the parties to try  
22 and cut out or reduce the issues brought before the  
23 Board orally.

24 MR. FREIDIN: I just hope that the  
25 pulling together of that information and synthesizing

1 of it has been helpful for the Board and the parties.

2 THE CHAIRMAN: Now, other than those  
3 comments, I suppose it will be helpful if some of the  
4 parties to the hearing indicated at this time if they  
5 have any other areas of which they are particularly  
6 concerned. This will, again, allow the proponent an  
7 opportunity to structure its case in such a way to be  
8 most helpful to those parties and the Board.

9 So I think I am going to briefly canvass  
10 some of the parties and see what their position is.  
11 Why don't we start with you, Ms. Swenarchuk?

12 MS. SWENARCHUK: I would like to be able  
13 to be of assistance to the Board, but I am not sure I  
14 can at this point. There are many, many issues  
15 regarding regeneration that we are concerned with from  
16 regeneration rates to succession rates, to cost, to  
17 artificial versus natural means of regeneration, so I  
18 don't think I can be more specific than that.

19 THE CHAIRMAN: We appreciate that parties  
20 will not be able to sort of do as we have done in some  
21 previous panels and say we are really interested in  
22 just this issue or these issues.

23 It is a topic that everybody is concerned  
24 with, as well as the Board, so it is going to have to  
25 be dealt with in that general way.



1                   Mr. Tuer, from the point -- Mr. Cassidy?

2                   MR. CASSIDY: Well, I think I am in  
3                   somewhat the same position as Ms. Swenarchuk in her  
4                   position.

5                   There is a shopping list that I could  
6                   potentially discuss, but I am not sure how helpful it  
7                   would be. Suffice it to say some matters such as  
8                   socio-economic effects of renewal that my clients are  
9                   interested in and renewal efforts at large, factors  
10                  influencing wildlife, use of habitat would be of some  
11                  interest to my clients.

12                  There are a couple of other matters that  
13                  are of general interest to them, most of which are set  
14                  out I think in the statement of issues that my clients  
15                  have filed, particularly the portion dealing with  
16                  cross-examination.

17                  So I think that they are set out there  
18                  and my friends with the Ministry may wish to ask us  
19                  further questions in respect of those - and feel free -  
20                  we will endeavour to try and speed this process up by  
21                  helping them out if they have any questions on some of  
22                  the specifics mentioned there.

23                  THE CHAIRMAN: Very well. Thank you.

24                  Mr. Edwards?

25                  MR. EDWARDS: Mr. Chairman, we haven't

1 filed a statement of issue, as I am sure you are aware,  
2 but I advised counsel for the MNR today that our  
3 cross-examination will be very limited on this panel.

4 We, of course, are intensely interested  
5 in the entire topic, but if we cross-examine at all it  
6 will be on the potential effects on aquatic environment  
7 and socio-economic effects and we may not cross-examine  
8 at all.

9 THE CHAIRMAN: Okay. That's helpful.

10 Thank you.

11 Ms. Seaborn?

12 MS. SEABORN: Mr. Chairman, our questions  
13 with respect to this panel are set out in some detail  
14 in our statement of issues and I think that gives the  
15 Ministry an indication of the areas we are interested  
16 in. I am quite happy to speak to Ms. Blastorah after  
17 this session if they require any clarification.

18 There is one additional issue that we  
19 raised in our statement of issues that we requested  
20 that the Ministry address in their direct testimony.  
21 So that we can deal with it in cross-examination, if it  
22 is necessary, after the direct testimony, and that's  
23 the only point I would like to make the Board aware of.

24 THE CHAIRMAN: Very well. Thank you.

25 Ms. Palowski, can you indicate on behalf

1 of Mr. Hunter how long he might be?

2 MS. PALOWSKI: George?

3 MR. McKIBBON: I think, Mr. Chairman, our  
4 statements are set out in our statement of issues very  
5 clearly. If there is any difficulty that the Ministry  
6 is having a problem with, we are hoping to talk to them  
7 about it.

8 THE CHAIRMAN: Very well.

9 Are there any other parties here?

10 (No response)

11 Mr. Colborne has advised the Board that  
12 he will not be participating on behalf of his client  
13 with respect to Panel 11 and, consequently, did not  
14 submit his statement of issues.

15 MS. SEABORN: Mr. Chairman, will the  
16 Federation of Anglers & Hunters be participating in  
17 this panel? I don't think I have a statement of issues  
18 from them, but my file might be incomplete.

19 THE CHAIRMAN: To our knowledge we  
20 haven't received a statement of issues from them. As  
21 well, we understand from a conversation last week that  
22 it is their intention to participate - although we  
23 haven't been advised as to who is going to represent  
24 them if they do participate - and they haven't  
25 indicated with any certainty that they in fact will



1       participate.

2                       So I think we will just have to actually  
3       wait and see when we get up to that panel as to what  
4       the degree of participation from them is.

5                       Mr. Freidin?   Ms. Blastorah?

6                       MS. BLASTORAH:   Mr. Chairman, I just have  
7       a few comments I would like to make.   I appreciate the  
8       comments from all of the counsel that it is difficult  
9       to give a list of issues in this kind of panel when  
10      some items are clearly of concern to everyone and I  
11      just would like to raise one problem that we have,  
12      though most of the counsel have tried to be very  
13      helpful.

14                      We have received quite extensive  
15      statements of issue from MOE and OFIA and also from  
16      NAN.   We have received a statement of issues from  
17      Forests for Tomorrow but, unfortunately, we haven't  
18      found it very helpful.

19                      We would like to try and speed up the  
20      process, as well as to provide the information that is  
21      going to assist other counsel in raising the issues and  
22      getting the information out on the table, and it is a  
23      little difficult to do that and be of any assistance to  
24      the Board and other parties when we receive a statement  
25      of issues that essentially just lists paragraphs by

1       number which are in dispute.

2                       It was our understanding that the  
3       intention of the scoping session was to shorten the  
4       hearing as well as to focus the issues.

5                       THE CHAIRMAN: Well, I am not convinced  
6       in terms of some of the topics covered by Panels 10,  
7       11, 12 and 13 that we are going to substantially  
8       shorten the process because of the subject matter  
9       involved in those panels. But what we do feel the  
10      scoping session can be helpful in is in terms of giving  
11      a clear indication to both the Ministry, who is  
12      presenting the evidence, and the other parties as to  
13      what areas the parties are essentially concerned about  
14      and identifying, in advance of the calling of the  
15      panel, certain areas that you may not have covered.

16                      MS. BLASTORAH: That's precisely our  
17      concern, Mr. Chairman.

18                      THE CHAIRMAN: This is why we do feel  
19      that even though parties are not going to be in a  
20      position to say: We don't need further evidence orally  
21      in terms of direct examination, or we don't even intend  
22      to cross-examine on particular paragraphs, although  
23      that's helpful, it is more helpful if you would also  
24      indicate what areas of concern you have that you feel  
25      should be dealt with in a different panel than what is

1 intended by the Ministry in terms of their witness  
2 statements as presented.

3 And, Ms. Swenarchuk, I think I realize  
4 that you certainly have some difficulties in terms of  
5 being able to spend the appropriate time and efforts in  
6 terms of resources to go through and perhaps list  
7 specifically, and I understand that your client is  
8 certainly -- aware certainly of the view that most of  
9 the issues in this panel are in fact important and  
10 perhaps that is the reason why the statement of issue  
11 is in this form.

12 MS. SWENARCHUK: Could I just add, Mr.  
13 Chairman, that as I recall, and it is some time ago,  
14 our interrogatories on that panel are extremely  
15 detailed and run to six or seven pages of questions and  
16 I really don't think that there is anything I could add  
17 in terms of issues as to whether the Ministry can  
18 ascertain what our position is from looking at those  
19 interrogatories.

20 THE CHAIRMAN: Well --

21 MS. SWENARCHUK: I don't take it that it  
22 would be particularly helpful to list the issues again.

23 THE CHAIRMAN: No, and obviously I think  
24 you are correct, your interrogatories for this  
25 particular panel were fairly detailed. So that perhaps



1 if you take a look at the interrogatories filed by this  
2 particular party you can ascertain certainly what their  
3 major area --

4 MS. BLASTORAH: Mr. Chairman, I do have  
5 some problem with that. Certainly the interrogatories  
6 are intended to illicit additional information to deal  
7 with issues which are not always clear from the  
8 interrogatories, and information requested in relation  
9 to interrogatories can always lead to use for several  
10 purposes or it can lead to further concerns by the  
11 party and so on. And my concern is that the purpose of  
12 this exercise was to help focus the issues, allow us to  
13 provide the information the parties are interested in  
14 and, as you yourself indicated yesterday, we are not  
15 mind readers.

16 Our concern is if we are trying to guess,  
17 based on the interrogatories filed whether, you know,  
18 the issues that other people are concerned with is only  
19 going to lengthen the hearing because we are going to  
20 try and anticipate everything and we will end up  
21 putting in more information than may be necessary. So  
22 our concern is that we don't, you know, unnecessarily  
23 want to lengthen the process.

24 THE CHAIRMAN: I think all the parties  
25 have been reasonably helpful to date in trying to make

1       this process work and all the Board would like to say  
2       is we would like to continue in this spirit and  
3       certainly if the parties can be helpful in focusing  
4       upon the issues of concern that interest them, it will  
5       serve the purpose of focusing the entire hearing.

6                       MS. BLASTORAH: That was our concern, Mr.  
7       Chairman, that's why I raised it. Thank you.

8                       THE CHAIRMAN: Thank you. All right.

9                       Ladies and gentlemen, the Board doesn't  
10       intend to spend any more time on this scoping exercise  
11       with respect to Panel 11 and we will move on to the  
12       next item.

13                      The Board has prepared a ruling with  
14       respect to the concerns raised by Ms. Swenarchuk and I  
15       am going to read it slowly so that some of you can take  
16       notes, and it will be available in the transcript in  
17       any event, verbatim.

18                      Ms. Swenarchuk, on behalf of Forests for  
19       Tomorrow, voiced her concerns yesterday over the  
20       introduction by the Ministry of Natural Resources on  
21       March 1, 1989 of a report prepared by Dr. Euler  
22       entitled Featured Species Management in Ontario and  
23       which report is dated February, 1989.

24                      This report was purportedly intended by  
25       the Ministry to provide information, more detailed

1 information to what was contained in Volume II,  
2 Document No. 4 of the Panel 10 witness statement and  
3 also to provide an answer to Question No. 27 of the  
4 interrogatories on the Panel 10 witness statements  
5 posed by Forests for Tomorrow. The report referred to  
6 was admitted by the Board as Exhibit No. 433.

7 Ms. Swenarchuk contends that Exhibit 433  
8 constitutes, in effect, a rewrite of Document 4 in  
9 Volume II of the Panel 10 witness statement and,  
10 accordingly, should be treated as a new witness  
11 statement.

12 Ms. Swenarchuk who, with the assistance  
13 of several experts, prepared for cross-examination of  
14 Dr. Euler's evidence on the basis of the information  
15 contained in Volume II is now compelled to have her  
16 experts review Exhibit 433 and prepare once again for  
17 cross-examination based on this new report which was  
18 distributed by the Ministry at the commencement of its  
19 direct examination of Panel 10.

20 In Ms. Swenarchuk's submission, the  
21 Ministry of Natural Resources' introduction of this new  
22 report in this fashion has substantially prejudiced her  
23 ability to cross-examine the Ministry's witnesses on  
24 the issue of featured species management and an issue  
25 which is of some considerable importance to Forests for



1 Tomorrow and undoubtedly other parties as well.

2 The Ministry for its part, in response to  
3 a direct question, state categorically that it has not  
4 changed its approach to featured species management as  
5 set out in Volume II of the Panel 10 witness statement  
6 and that Exhibit 433 provides a justification for what  
7 is contained in Volume II and provides a more detailed  
8 explanation of the information contained in Document 4  
9 of Volume II.

10 In an attempt to provide an answer to  
11 Question No. 27, something which the Ministry was not  
12 obliged to do as the interrogatories were submitted  
13 approximately 14 days after the date for submitting  
14 interrogatories had expired, the Ministry decided to  
15 provide the new report at the 11th hour. By doing so  
16 the Ministry has, albeit unintentionally, deprived the  
17 intervenors of an appropriate period of time to have  
18 the new report reviewed by their experts.

19 This matter has caused the Board to  
20 reflect upon the purpose of the interrogatory process  
21 in general and, in doing so, to issue a ruling which  
22 will address this particular matter, but with a view to  
23 avoiding a repetition of this type of incident in the  
24 future. Interrogatories are defined in the Board's  
25 Rules of Practice and Procedure under Section 1(5) as,

1       and I quote:

2                       "Questions posed in writing by one party  
3                       to another seeking clarification or  
4                       explanation of material provided by the  
5                       party to whom the interrogatories are  
6                       addressed."

7       Their purpose is to clarify or explain material already  
8       provided. It is not for the primary purpose of  
9       bringing new evidence, although it may be necessary to  
10      provide additional facts or further rationale in order  
11      to clarify or explain material provided in the first  
12      instance.

13                     In the course of this particular  
14      application before the Board the interrogatory process  
15      has taken on the elements of a discovery process,  
16      something which unfortunately is lacking in the context  
17      of proceedings before administrative tribunals.  
18      Intervenors have used the process not always for the  
19      purpose of just clarifying or explaining information  
20      contained in witness statements, but sometimes for the  
21      purpose of requiring production of additional data;  
22      thus, a question framed, for example, in the manner of  
23      Question 27(a), and I quote:

24                     "Please provide all available literature  
25                     and internal Ministry of Natural

1                   Resources' reports on the featured  
2                   species approach to management"  
3       -- which would, by necessity, require an answer that  
4       would contain information additional not found in the  
5       witness statement.

6                   Had the Ministry provided such  
7       information in the first instance as part of the Volume  
8       II material, it would have undoubtedly added to the  
9       burden under which all parties and the Board have  
10      laboured to date; that is, to manage the volume of  
11      evidence before the Board.

12                  In the Board's view the parties cannot  
13      use the interrogatory process to require production of  
14      further information. These matters are dealt with  
15      specifically in the Board's Rules under Rules 42 and  
16      43.

17                  The Board -- sorry, the Ministry's stated  
18      position is that its featured species approach to  
19      management hasn't changed. It remains as set out in  
20      Document 4 in Volume II of the Panel 10 witness  
21      statement. The Board will not determine whether or not  
22      Exhibit 433 is substantially different from the  
23      information or that contained in Document 4 of Volume  
24      II at this stage.

25                  Notwithstanding the above however, the



1 Board must, in the interest of fairness, ensure that  
2 Forests for Tomorrow and other parties have an adequate  
3 opportunity to review Exhibit 433 with their experts  
4 and to prepare for cross-examination. The Board,  
5 therefore, orders that Dr. Euler not give his  
6 evidence-in-chief until the Board returns on March 28th  
7 and further, that Ms. Swenarchuk need not commence her  
8 cross-examination of Panel 10 until April 3rd next.

9 In view of the time remaining prior to  
10 the spring break on March 10th, Mr. Freidin should be  
11 able to complete his examination-in-chief of the Panel  
12 10 witnesses with the exception of Dr. Euler. Ms.  
13 Swenarchuk and the other parties will then have  
14 approximately four weeks to review Exhibit 433 and  
15 prepare for the cross-examination of Dr. Euler.

16 The Board accepts that Exhibit 433 was  
17 intended by the Ministry to provide an answer to  
18 Question No. 27 posed by the Forests for Tomorrow and  
19 will not prevent further interrogatories on this  
20 report.

21 Ms. Swenarchuk and other parties will  
22 have the opportunity to cross-examine Dr. Euler on  
23 Exhibit 433 and will, of course, have ample opportunity  
24 to call their own evidence on any issues raised in this  
25 report in Panel 10's evidence. In future, the Board

1 will not permit documents or reports to be filed at the  
2 last minute in a manner which clearly prejudices other  
3 parties and their ability to deal with them.

4 It is for that precise reason that  
5 interrogatories and answers to interrogatories must be  
6 delivered in accordance with the timeframes established  
7 by the Board. The Board has attempted throughout to  
8 limit the necessity of recalling witnesses and, with  
9 the exception of having to recall a witness for the  
10 purpose of dealing with evidence which was the subject  
11 of a specific undertaking, the parties will be required  
12 to address what they consider to be outstanding issues  
13 in the context of putting in their own evidence.

14 And that, ladies and gentlemen, completes  
15 the ruling with respect to that matter.

16 MS. SWENARCHUK: Mr. Chairman, just one  
17 comment that I intended to make yesterday and I would  
18 like to make for the record and; that is, that like  
19 other counsel in this proceeding, I have attempted to  
20 resolve these sorts of procedural matters by discussion  
21 with counsel and, in my view, it is unfortunate that in  
22 the approaches that I made to counsel for the proponent  
23 on this matter I was not informed, prior to the Board  
24 being informed, that it was the position of the  
25 Ministry that that paper was prepared in response to

1       our interrogatory.

2                       THE CHAIRMAN: Well, we didn't want to  
3 encourage in any way a situation where counsel between  
4 themselves are not acting appropriately and by that I  
5 mean being as helpful as possible to each of the other  
6 parties.

7                       We fully realize that this proceeding is  
8 conducted in terms of an adversarial context, but we  
9 are always conscious of the fact that - and I have  
10 stated this before - where looking at matters  
11 concerning the environment we are not looking for  
12 parties to make points between themselves, there aren't  
13 winners and losers necessarily between the parties and,  
14 as a consequence, it is more important that the Board  
15 be apprised of the best evidence before it and in order  
16 for parties to be able to put that evidence before the  
17 Board, they have to at all times cooperate fully with  
18 each other.

19                      And in future, Mr. Freidin, it is a  
20 situation where you are preparing documentation in  
21 answer to a specific interrogatory, I think it is  
22 incumbent upon the Ministry to so state that - and this  
23 goes for all of the parties - that the Board will not  
24 permit in the future documentation to be delivered at  
25 the last minute.



1                   It is unfair to the parties, it is unfair  
2                   to the Board, it is unfair to the public and the  
3                   taxpayers of this province. This hearing is taking an  
4                   extremely long time, it is not the fault of the  
5                   parties, there is an enormous amount of evidence and  
6                   there are many issues before the Board for  
7                   adjudication.

8                   We are fortunate in this particular  
9                   instance that the concerns raised by Ms. Swenarchuk  
10                  coincide with a scheduled break in the proceedings,  
11                  because had they not coincided with a scheduled break  
12                  in the proceedings, we might well have lost valuable  
13                  hearing time because the Board might well have ordered  
14                  an adjournment in order that Mrs. Swenarchuk might have  
15                  had the opportunity to review Document 433 with her  
16                  experts before being called upon to cross-examine.

17                  Fortunately we have that time built in  
18                  and we aren't going to be losing any appreciable  
19                  hearing time. But, in future, we want to make it quite  
20                  clear that we will not look favourably on any party  
21                  which puts in documents in a manner which does not  
22                  allow the parties who are interested in that document  
23                  an adequate opportunity to deal with it. And that is  
24                  why we have set up the interrogatory process and the  
25                  witness statement exchange process and, in all the

1 other processes of the Board, various timeframes to  
2 allow for that kind of examination and in a manner  
3 which will not inhibit the orderly progress of the  
4 hearing.

5 MS. MURPHY: If I might just make one  
6 comment, Mr. Chairman. I am basically the person who  
7 deals with these matters over in the office. As you  
8 can appreciate, Mr. Freidin cannot handle what is going  
9 on at the hearing and as well handle the tremendous  
10 volume of interrogatories, sorting out how they are  
11 dealt with and so forth, and I am basically trying to  
12 do that at the office.

13 I can advise you that we have not refused  
14 to answer interrogatories that have not been asking for  
15 clarification. We have been basically taking the  
16 position that if someone is asking for information that  
17 seems generally relevant and there is some possibility  
18 of us providing information, we have done our best to  
19 do that, and I would like to point out that that has  
20 involved a lot of people, a lot of time, a lot of  
21 effort. And generally speaking, what we have attempted  
22 to do is advise people if they are looking for  
23 information.

24 There are situations where information  
25 may in fact come out directly through witnesses. This

1       may have been an inbetween situation where Dr. Euler  
2       may have just as easily put that information as a  
3       witness and instead it was provided earlier.

4               At the same time, I would point out that  
5       Forests for Tomorrow, for example, we have  
6       interrogatories for Panel 10 in which they have asked  
7       for substantial amounts of other information and we  
8       have made overtures to them to organize the collection  
9       of that information. That is on the record and that  
10      information will certainly not be forthcoming during  
11      this panel. That is going to take a lot of time and  
12      that may be another thing you would want to consider,  
13      but this is our attempt to provide information to  
14      people who wish information.

15              We have the same situation, I will advise  
16      you now, in Panel 11 where Forests for Tomorrow again  
17      has asked for information and we have offered to gather  
18      expert information. Again, we might end up with the  
19      same situation.

20              So I am just concerned that in our  
21      efforts to respond to people that have asked for  
22      information, they don't consider the collection of that  
23      information and the provision of it to be in any way  
24      prejudicial, sir.

25              THE CHAIRMAN:   Okay.   The Board

1 understands that and it has handled many of these  
2 requests in the past in terms of providing documents of  
3 general nature by way of undertaking. We realize that  
4 when somebody puts in a question or poses a question in  
5 an interrogatory of a general nature that the Ministry  
6 is prepared to respond to, they can't always dredge up  
7 that information within the ten days or so that they  
8 have to respond to interrogatories and that information  
9 will necessarily have to come at a later date. We  
10 understand that.

11 By the same token, if there are  
12 situations where the Ministry cannot provide the  
13 information in a timely fashion, then we would ask it  
14 to be brought specifically to the attention of the  
15 Board, because the Board can then consider that request  
16 as it would in terms of a request for further  
17 information and decide whether, in our view, it is fair  
18 to put the party to whom the request is made through  
19 the effort of trying to gather that information. And  
20 if it turns out that, in our view, it is fair, then we  
21 will have an indication as to how long it will take and  
22 we can issue the appropriate directions.

23 I think what some of the parties are  
24 running into is that there may be a request, they  
25 expect the information to be forthcoming fairly



1 quickly; for one reason or another is isn't forthcoming  
2 very quickly. I think that is something that the Board  
3 may have to be placed in a position of controlling to a  
4 greater degree.

5 MS. SWENARCHUK: Mr. Chairman, there is  
6 no objection from us with regard to the matters that  
7 Ms. Murphy is referring to and the length of time that  
8 is being taken to collect that information. And I say  
9 again, had I known that the Ministry's position on this  
10 document is that it is in response to our  
11 interrogatories, the whole matter might have been dealt  
12 with differently.

13 THE CHAIRMAN: Okay. But while you raise  
14 that, Ms. Swenarchuk, even though you are not objecting  
15 to the time it may take the Ministry to put together  
16 this information, the Board wants to be advised, I  
17 think, from time to time when you are into a situation  
18 like that because it will inevitably raise the  
19 possibility of having to recall witnesses.

20 In other words, if that information can't  
21 be provided in a timely fashion, it may mean that the  
22 witnesses who would normally deal with that information  
23 will be off the stand.

24 MR. CASSIDY: Well, Mr. Chairman, it may  
25 be appropriate for me to make some comments now dealing

1 with that matter, because that is precisely the problem  
2 I face and why those letters by both counsel for MNR  
3 and Forests for Tomorrow were, at my request, put  
4 before you this morning because that is precisely the  
5 difficulty I am going to have.

6 Even though Ms. Swenarchuk says she is  
7 not going to have any problem with the time lag, the  
8 very definite possibility of witnesses being recalled  
9 is something I would like to deal with. And if I  
10 could, I would like an opportunity to speak to that.

11 MS. MURPHY: I did have one other comment  
12 just before I sit down.

13 THE CHAIRMAN: Okay.

14 MS. MURPHY: And the thing that concerns  
15 me, I am just thinking about this sort of in the normal  
16 sort of process. When another party asks us for  
17 information, it seems to me that when they get that  
18 information it is their decision whether they want to  
19 use it or not. They may well get information that they  
20 don't like, that happens, and they may not want then to  
21 rely on it themselves.

22 If we formalize that part of the process  
23 we may in fact get ourselves into the situation where  
24 these person's don't have the opportunity to look at  
25 the response they get and decide what they want to do.

1       So I am just concerned with thinking through that part  
2       of the process as well.

3               THE CHAIRMAN: Mr. Cassidy, some members  
4       of the panel haven't had an opportunity to read  
5       thoroughly the letter dated February 22nd and the other  
6       one.

7               MR. CASSIDY: I can appreciate that since  
8       it has just been in the last week that these matters  
9       have come to our attention as well.

10              THE CHAIRMAN: And we are just wondering  
11       if it might be advantageous if we just took a very  
12       short recess to have that opportunity then come back  
13       and deal with your concerns specifically.

14              MS. SEABORN: Mr. Chairman, just before  
15       you break, a clarification on the ruling. Is it the  
16       Board's intention that after Dr. Euler gives his  
17       evidence-in-chief commencing March 28th that no parties  
18       will cross-examine until the April 3rd date?

19              THE CHAIRMAN: Well, we were hoping that  
20       Mr. Cassidy or Mr. Tuer might be in a position to start  
21       questioning Panel 10 probably March the 29th or 30th.  
22       We don't know how long Dr. Euler will take, but he may  
23       take a day or two -- two days. So that we would be  
24       looking at the 30th. And I don't know what day of the  
25       week that is, there is a weekend in there as well.

1                   But if you could start, Mr. Tuer, on the  
2           Thursday that would be helpful, we wouldn't lose part  
3           of that day completely and then continue on, if you  
4           haven't completed it on the Monday, and then go from  
5           there and then the other parties will fall into place  
6           after April 3rd.

7                   MR. TUER: I will be prepared to commence  
8           cross-examination as soon as the evidence-in-chief is  
9           completed.

10                  THE CHAIRMAN: Very well.

11                  MR. TUER: So if it is Thursday that is  
12           when I will start. That is after the break?

13                  THE CHAIRMAN: That's right, that's  
14           right.

15                  MS. BLASTORAH: And I would just point  
16           out that is a short week, that you indicated we won't  
17           be sitting either the Monday or the Friday.

18                  THE CHAIRMAN: Right, okay.

19                  MR. MARTEL: Just three days.

20                  THE CHAIRMAN: So I don't think, under  
21           the circumstances of this particular situation, we are  
22           going to lose any hearing time at the rate we are  
23           going.

24                  I am quite sure, Mr. Freidin, that - and  
25           we have tried to work it out - the rest of the



1 witnesses on Panel 10 will take up most of the time,  
2 with the exception of Dr. Euler, and we probably won't  
3 get up to him - leaving him until the end - until March  
4 28th in any event.

5 MR. FREIDIN: I think you are right,  
6 particularly with all the unexpected occurrences.

7 THE CHAIRMAN: Okay. We will break for  
8 ten minutes and come back and deal with this matter.

9 ---Recess taken at 9:55 a.m.

10 ---Upon resuming at 10:15 a.m.

11 THE CHAIRMAN: Thank you. Be seated,  
12 please.

13 Mr. Cassidy?

14 MS. SWENARCHUK: Mr. Chairman, I wonder  
15 if it would be helpful for me to explain how these  
16 letters came into existence.

17 MR. CASSIDY: Well, it may be helpful,  
18 but I think it may be helpful for the Board to hear  
19 from me first, which may put my complaints or problem  
20 or concern, whatever you want to call it, into  
21 perspective, and then if you find it helpful to hear  
22 from Mr. Swenarchuk on that, you can call upon her.

23 THE CHAIRMAN: Very well.

24 MR. CASSIDY: Mr. Chairman, the thrust of  
25 my submissions this morning is essentially that my

1 clients are concerned about their rights of  
2 cross-examination on material that is anticipated to be  
3 provided by the Ministry in response to interrogatories  
4 submitted by counsel for Forests for Tomorrow in Panel  
5 10.

6 The interrogatories are discussed in two  
7 letters which I am going to raise before you this  
8 morning. The first letter is dated February 22nd,  
9 1989, from counsel for MNR to counsel for Forests for  
10 Tomorrow and that relates to Question No. 24 of Forests  
11 for Tomorrow's interrogatories for Panel 10. The other  
12 letter is dated February 27th, 1989 from counsel for  
13 Forests for Tomorrow to counsel for MNR and it poses a  
14 brand new interrogatory.

15 Now, you may wish to enter these two  
16 letters as exhibits, in that we will be discussing  
17 them, hopefully not at great length, but at some length  
18 this morning.

19 THE CHAIRMAN: Yes, I think that would be  
20 appropriate. The letter dated February 22nd, 1989 will  
21 go in as Exhibit 442.

22 ---EXHIBIT NO. 442: Letter dated February 22nd, 1989  
23 from Houser, Henry, et al (counsel  
24 for MNR) to CELA (counsel for  
Forests for Tomorrow.

25 THE CHAIRMAN: And the letter from the

1 Canadian Environmental Law Association to the  
2 Ministry's counsel dated February 27th, 1989 will go in  
3 as Exhibit 443.

4 ---EXHIBIT NO. 433: Letter dated February 27, 1989  
5 from the CELA (counsel for Forests  
6 for Tomorrow) to Houser, Henry, et  
al (counsel for MNR).

7 MR. CASSIDY: Thank you. If I can then  
8 deal with Exhibit 442, being the letter dated February  
9 22nd, and outline the concerns that my clients have in  
10 respect of the matters raised by that letter.

11 First of all, I should advise you that  
12 that letter was received by my office and, therefore,  
13 by my clients obviously after February 22nd - and that  
14 would have been while the Board was on its site visit  
15 to the Timmins area - and, obviously, after Mr. Armson  
16 gave his evidence, save and except for his redirect in  
17 respect to Panel 9 and, obviously, on the eve of Panel  
18 10 which is what we are presently going through.

19 It also represents the first time that my  
20 clients became aware of the particulars or the nature  
21 of the discussions ongoing between Forests for Tomorrow  
22 and MNR in respect of how MNR was to provide the  
23 information requested by Forests for Tomorrow in their  
24 24th interrogatory for Panel 10 which, on the face of  
25 it, appears to be a rather straightforward question.

1                   But as MNR points out - and I will leave  
2                   that to Ms. Murphy to discuss - poses a number of  
3                   technical and complex matters and, in fact, she states  
4                   that in her letter, in Exhibit 442, when she states:

5                   "A complex task must be undertaken to  
6                   provide a meaningful response to that  
7                   question."

8                   As a result of having this brought to our attention, it  
9                   now appears, and I think it is safe to say that it is  
10                  going to take some time for that interrogatory to be  
11                  answered, and the important thing for the Board to note  
12                  is that, I think I can say with all safety, that it is  
13                  not going to be answered before this panel, being Panel  
14                  10, is complete with its evidence in both examination  
15                  and what, in the normal course, would have been the  
16                  cross-examination.

17                  The effect of that is, is that my clients  
18                  will not have the opportunity to cross-examine the  
19                  witnesses, in which this information is extensively  
20                  being provided, on the answers that it would, in the  
21                  normal course, be provided with in answer to this  
22                  interrogatory. As you know, and as you have seen over  
23                  the course of the past several months, parties have  
24                  been and are cross-examining witnesses on  
25                  interrogatories that they don't necessarily themselves



1 provide to the Ministry. And I can think of numerous  
2 examples where in fact Forests for Tomorrow has filed  
3 interrogatories submitted by other parties and then  
4 cross-examined the witnesses on that.

5 THE CHAIRMAN: Now, I don't think you  
6 have to go into justifying that procedure. The Board  
7 accepts that other parties can cross-examine on  
8 interrogatories posed by other parties.

9 MR. CASSIDY: And in that light it may  
10 very well be that with the extensive information that I  
11 anticipate would be provided in answer to this  
12 interrogatory, my clients would very well want the  
13 opportunity to cross-examine on that.

14 It is a matter of significance to the  
15 Board, the issue raised in this letter and in this  
16 interrogatory. It is clear that the methodology to  
17 even collect that information is not at the moment  
18 decided upon and I have some sympathy with that because  
19 it is a complex task, but it is nevertheless one that  
20 my clients have a crucial and vital interest in and,  
21 therefore, would like the opportunity to cross-examine  
22 on.

23 Now, it raises the concern which you  
24 indicated before the break and; that is, the question  
25 of recalling panels. And I submit to the Board that if

1       that is the way in which my clients can have the  
2       opportunity to cross-examine on this material, then I  
3       am requesting that and I submit that that is the only  
4       fair way to deal with my client's concerns.

5               There is obviously a concern of other  
6       parties and I suspect maybe even Ms. Swenarchuk is  
7       going to stand up and make the same comment.

8               I have tremendous sympathy for the  
9       Board's desire to speed this process along and, as we  
10      have indicated throughout, we have the same desire and  
11      the last thing I want to do is to have these six  
12      gentlemen, or whoever it is that is going to answer  
13      this, come back. But you can understand that this  
14      material is being provided after Mr. Armson has  
15      testified in Panel 9 dealing with the clearcut issue  
16      and will inevitably be answered after this panel is off  
17      the witness box.

18              THE CHAIRMAN: Well, let the Board make  
19      the following comments on your submissions and then,  
20      Ms. Swenarchuk, we can hear from you or other parties.

21              The Board views the issue concerning  
22      clearcuts of some importance in the overall context of  
23      this application. And while the Board does not really  
24      want to entertain the prospect of recalling witnesses,  
25      there are certain issues where the Board will in fact

1       be persuaded that it is in the interest of both the  
2       Board and the remainder of the parties.

3               Certainly the issue raised by this  
4       particular interrogatory falls into that category and,  
5       consequently, the Board certainly accepts the concerns  
6       of your client of being deprived of the ability to  
7       cross-examine Panel 10 on such an issue and we also  
8       appreciate that if this methodology is followed, as set  
9       out in the letter dated February 22nd, the information  
10      will not be available prior to this -- or will not  
11      likely be available prior to this panel stepping down.

12              So I think to alleviate some of your  
13      concerns, the Board would favourably entertain the  
14      recalling of this panel to deal with this issue should  
15      the information come in after the panel has stepped  
16      down.

17              Now, the Board also has another concern  
18      that it would like to raise and that is the methodology  
19      suggested in this letter. We understand that the  
20      methodology proposed has been the result of discussions  
21      between the Ministry and Forests for Tomorrow and we  
22      would suggest that, because of the issues raised and  
23      the manner in which the information is going to be  
24      collected and the impact to the relevancy and accuracy  
25      of that information depends a lot upon the methodology

1 employed, that discussions should probably be held with  
2 the other parties so that they are ad item in terms of  
3 the methodology that is proposed in this proposal.

4 And it shouldn't be, in our view, a  
5 matter just between Forests for Tomorrow and the  
6 Ministry, but it should include the other parties  
7 before the Board because again, this issue, in the  
8 Board's view, is of critical importance along with  
9 several other issues to this application.

10 MR. CASSIDY: Mr. Chairman, I don't know  
11 whether you intend to issue a ruling after hearing from  
12 me this morning, but if you are - and, in any event,  
13 even if you aren't - I am going to make the request  
14 that the OFIA and OLMA be included in those discussions  
15 on methodology and I trust that that is implicit in the  
16 comments you have just made.

17 THE CHAIRMAN: That's right. I think  
18 what the Board is suggesting is, is that before the  
19 Board issues any kind of ruling I think we can go this  
20 far:

21 We feel that the information requested by  
22 way of this interrogatory is important to the matters  
23 before this Board, therefore we, as well as the  
24 parties, would like that information put before us if  
25 possible and if a methodology can be agreed upon that



1 is satisfactory to the parties and the Board.

2 Now, in order to arrive at that  
3 methodology I think discussion should be held amongst  
4 all the parties and we would, in effect, rule that  
5 those discussions should be conducted as expeditiously  
6 as possible.

7 If a methodology is agreed upon and the  
8 Ministry goes about collecting the information pursuant  
9 to that methodology, then the Board will indicate now  
10 that if that information is forthcoming after Panel 10  
11 steps down, Panel 10 will be required to return to deal  
12 with the cross-examination by any party on the evidence  
13 which is forthcoming as a result of the answer to that  
14 interrogatory at some later stage.

15 MR. CASSIDY: I appreciate those comments  
16 and look forward to seeing that in the ruling, Mr.  
17 Chairman.

18 The other concern I have is, as I  
19 indicated to you, this matter came to our attention  
20 after Mr. Armson had completed his evidence-in-chief  
21 and cross-examination and he, as you know, having sat  
22 here and listened to it, it did deal with the  
23 clearcutting issue and there may well be substantial  
24 information in this answer to the interrogatory that my  
25 client may wish to cross-examine Mr. Armson on since he

1 gave what I think is very cogent and very useful  
2 evidence to this Board on clearcutting.

3 It would deprive the Board of the  
4 opportunity to have him comment on this material if he  
5 were not to be asked about it.

6 ---Discussion off the record

7 THE CHAIRMAN: Very well, Mr. Cassidy,  
8 the Board is cognizant of your submissions and will not  
9 exclude the possibility of recalling Mr. Armson to deal  
10 with any information arising out of the answer to the  
11 interrogatory. We are not stating at this point that  
12 we will order his recall, but we are certainly not  
13 going to exclude it at this point.

14 MR. CASSIDY: If I could just reiterate  
15 to the Board, the concern is of course that his  
16 evidence was originally going to be in Panel 10 -- or  
17 evidence that he dealt with was going to be called in  
18 Panel 10. So I wouldn't want the Board to lose sight  
19 of the fact that Mr. Freidin, for very obvious reasons,  
20 felt necessary to deal with it in Panel 9.

21 The other matter we may be able to deal  
22 with fairly quickly then, the Exhibit 443, at least  
23 from my perspective, Ms. Murphy may have comments with  
24 respect to the delivery of the interrogatory and Ms.  
25 Swenarchuk, but I will leave that to those two counsel.

1                   In respect of that, however, my clients  
2           have the very same concern and; that is, that I have no  
3           idea when this would be provided since I haven't had  
4           the benefit of a letter from -- responding to it from  
5           counsel from MNR saying how difficult it is going to be  
6           but, again, I have every reason to suspect that it will  
7           not occur in the lifetime of this panel and, as a  
8           result, my clients --

9                   THE CHAIRMAN:   You mean in the lifetime  
10          of when this panel is scheduled to testify?

11                  MR. CASSIDY:   Well, I was using the panel  
12          in the sense of its collective existence.  I trust that  
13          the individuals will survive the grilling that they are  
14          going to receive.

15                  THE CHAIRMAN:   And I think, as one of  
16          your colleagues noted, I hope you are not referring to  
17          this panel, this one up here.

18                  MR. CASSIDY:   In that event I have the  
19          same concerns and I have no idea who is even going to  
20          answer this or who would be responsible for providing  
21          it - and maybe Ms. Murphy can help us out on that - but  
22          I reserve again the request that we be allowed to  
23          cross-examine on it.  It directly relates to my  
24          clients, it is not a peripheral issue and, therefore, I  
25          ask that your ruling include that as well.

1 THE CHAIRMAN: Thank you.

2 Do you want Ms. Swenarchuk to go first  
3 or...

4 MS. MURPHY: I think perhaps...

5 MS. SWENARCHUK: Mr. Chairman, I think I  
6 am the only person in position to put some of the facts  
7 necessary to this in front of the Board.

8 THE CHAIRMAN: All right. Why don't we  
9 have Ms. Swenarchuk make her submission and then we  
10 will get right back to you, Ms. Murphy.

11 MS. MURPHY: Fine.

12 MS. SWENARCHUK: Mr. Chairman, on  
13 reflecting on the interrogatory process in general,  
14 could I just recall to everyone's attention that  
15 although it may certainly put an onerous responsibility  
16 on the Ministry for us to ask some of the  
17 interrogatories we ask, this is information which, if  
18 it were not obtained through the interrogatory process,  
19 they are questions we would be putting to the  
20 witnesses.

21 And since they are questions that often  
22 require a great deal of information, it has appeared to  
23 me that it is, in fact, more expeditious to do it  
24 through interrogatories because it gives the Ministry  
25 then the opportunity to collect the data; otherwise we



1 would ask the question, the witness may well not know  
2 the answer, certainly won't have a lot of data  
3 available and will be then presumably into an  
4 undertaking situation and delay. So that is part of  
5 the reason that we have used the interrogatory process  
6 in the way that we have.

7 Now, I must say with respect to the  
8 question on clearcutting, I have the feeling that I  
9 dropped a pebble into the brook and instead of a few  
10 ripples I got a tidal wave, because I frankly didn't  
11 anticipate initially getting into this kind of a very  
12 complex procedure as well.

13 However, yes, as Mr. Cassidy says and as  
14 the letter outlines, we have been discussing with the  
15 Ministry a methodology for answering this question. At  
16 this moment we were to -- we were scheduled to meet  
17 with the Ministry people on Monday at noon with our  
18 expert to expedite that process, and perhaps if Mr.  
19 Cassidy's clients want to be present we will have to  
20 reorganize that. We consider it an important question  
21 and I am glad to see that the Board agrees.

22 The Ministry has been very cooperative.  
23 I think the process here, as I say, has been one that  
24 is more complex than I anticipated but the Ministry has  
25 convinced me that the complexity is there and it has to

1 be done in that way. In those discussions, I would  
2 just indicate, with Mr. Freidin at one of our initial  
3 meetings we raised the question of the right to  
4 cross-examine if the material is filed later and Mr.  
5 Freidin certainly agreed with that and I would assume  
6 that applies to all parties.

7 With respect to the other letter, the  
8 supplementary interrogatory, can I just indicate that  
9 we filed that interrogatory because, if you will  
10 recall, I asked a question like that to Mr. Armson on  
11 Panel 9 and I was frankly surprised that he was not  
12 able to provide us with any information on that.

13 Now, if the - and I haven't heard a  
14 response from the Ministry on this question yet -  
15 if they do not want to deal with it through the  
16 interrogatory process, you know, I won't object, but I  
17 do think it is again relevant information on the  
18 subject of harvest and, one way or the other, I think  
19 it would be useful for the Board as well to have the  
20 answer to that question. I am totally open and  
21 flexible and cooperative as to how the information is  
22 provided.

23 THE CHAIRMAN: All right. Well, let's  
24 hear from the Ministry - thank you, Ms. Swenarchuk - as  
25 to their views on the matters discussed.

1 MS. MURPHY: Unfortunately, I didn't  
2 bring my material with me so I am doing this from  
3 memory, but I did write the letter so I should be able  
4 to remember.

5 I think the first issue - (handed) - oh,  
6 thank you. The first issue really is the question from  
7 Forests for Tomorrow about clearcuts. As you recall,  
8 we did receive the question with all of the other  
9 interrogatories. It was -- again, and I have to agree  
10 with Ms. Swenarchuk when she says that in some  
11 situations the information that's being requested is  
12 information that could potentially have been asked of  
13 witnesses and it probably is helpful in certain  
14 circumstances to have that lead time so the information  
15 can be provided in writing prior to the panel taking  
16 the stand or provided by the panel after they take the  
17 stand. There are those situations.

18 In this particular situation, as she  
19 explains, we thought long and hard about how to go  
20 about this and decided because it was complicated it  
21 would be best to engage in some discussion with the  
22 person who had written the interrogatory to determine  
23 how to go about answering it.

24 We look at the normal interrogatory  
25 process, it is one party asking the proponent for

1 information. They, as I understand the situation in  
2 the normal course, get to choose what they want to do  
3 with the information when they get it, all of the other  
4 parties receive the response. When there are large  
5 voluminous attachments we don't provide that to  
6 everyone but they know it exists, they can ask for it.

7 THE CHAIRMAN: Well, we would normally  
8 agree with that approach, Ms. Murphy, but when you are  
9 dealing with a situation where you are not just  
10 providing factual information, like statistical  
11 information, but you may have to enter upon a whole  
12 methodology as to how it is collected--

13 MS. MURPHY: Correct.

14 THE CHAIRMAN: --those situations, I  
15 think it would be helpful if the other parties who  
16 obviously would be interested in whatever value that  
17 information provided, had some input into how it was  
18 collected. It is not just a matter of you going out  
19 and pulling a figure out of a book--

20 MS. MURPHY: Absolutely not.

21 THE CHAIRMAN: --in this case, and that  
22 is why we are suggesting, in this particular instance,  
23 dealing with this particular subject of clearcut, that  
24 perhaps the views of the other parties as to  
25 appropriate methodology should also be discussed.



1                   MS. MURPHY: Fair enough. And as I  
2 understand, what we are all saying is that we are  
3 really talking about two steps here, and the first step  
4 being the design of the method and then potentially the  
5 second step being some cross-examination of somebody,  
6 in any event, on the results. These are really two  
7 different phases of this.

8                   With respect to the methodology, my  
9 understanding is that there were some very preliminary  
10 discussions and on the request of Ms. Swenarchuk we  
11 wrote a letter that pointed out from the point of view  
12 of our experts the kind of things that would have to be  
13 considered. This is not, Mr. Chairman, the design of  
14 the methodology.

15                  The next step that we had suggested was  
16 getting together to discuss further those matters and  
17 any other matters that may be raised and I agree that,  
18 given the circumstances, it may be wise to take that,  
19 you know, formalize that step in some way.

20                  The second part of it then would be how  
21 we deal with the information, and I suggest that that  
22 is probably something that we can deal in the course of  
23 things as they come to fruition.

24                  As a practical matter, I am not entirely  
25 sure what to suggest. As Ms. Swenarchuk says, on

1 Monday we were planning to get together with her  
2 consultant to look at the -- you know, some of the  
3 suggested material here. It may still be advisable --  
4 I would suggest it would be advisable to carry out  
5 some further part of this process in a less formal  
6 atmosphere and whether other parties wish to attend, if  
7 they would advise me, we can try to set up some time.

8 THE CHAIRMAN: Well, we are not  
9 suggesting that the design of the methodology has to be  
10 in open session in front of the Board, we don't wish to  
11 formalize it to that extent.

12 What we are suggesting is, is that  
13 perhaps you and Ms. Swenarchuk can coordinate a meeting  
14 with other counsel representing the other parties  
15 wherein you can all try and agree upon a methodology  
16 that basically satisfies all of you.

17 MS. MURPHY: I would just observe that it  
18 isn't counsel who are capable of doing this, it is  
19 their experts, but...

20 THE CHAIRMAN: Well, counsel on behalf of  
21 their clients with whatever experts are required.

22 MS. MURPHY: That's right.

23 THE CHAIRMAN: And if a common  
24 methodology can be agreed upon, then proceed to gather  
25 the information upon that basis. If it turns out that

1       you can't agree then, rather than going out and just  
2       collecting it on some basis where the other parties  
3       will object to the manner in which it was collected in  
4       the first place and, therefore, the information that  
5       results from it will be in some doubt, then you may  
6       have to put it before the Board and we may, after  
7       considering argument on it, determine what methodology  
8       should be used and what the Board is happy with.

9                       We will arbitrate in that sense if you  
10       can't agree, but we think there should be informal  
11       get-together amongst counsel and their relevant experts  
12       and they should be able to come up with a common  
13       methodology.

14                      MS. MURPHY: That's fine. If it is  
15       required, certainly that would be the way to deal with  
16       it, it may not be. And do I take from your remarks  
17       that you would expect that at some stage when this  
18       methodology - and in very short order I should hope -  
19       is designed that that at least would be formalized by  
20       being filed with the Board?

21                      THE CHAIRMAN: Yes, I think that would be  
22       appropriate so we all know under which method you are  
23       going about collecting the information. And if at that  
24       point we look at it, we may have some concerns  
25       ourselves that we may wish to express, I don't know.

1 But then I take it that the timeframe to collect the  
2 information would extend beyond Panel 10's scheduled  
3 appearance?

4 MS. MURPHY: I think we can assure you of  
5 that.

6 THE CHAIRMAN: Right. So then we will  
7 have to consider when they might be recalled or the  
8 relevant members of that panel recalled. And I can  
9 assure you that if we are going through this whole  
10 process, we will in fact insist upon their recall.

11 MS. MURPHY: Of some person who is  
12 capable of answering the questions, whoever that might  
13 be.

14 THE CHAIRMAN: Or the panel.

15 MR. CASSIDY: Again, I have to repeat my  
16 concern about Mr. Armson because he gave clearcutting  
17 evidence and there could very well be somewhat of a  
18 laguna in there.

19 THE CHAIRMAN: Well, certainly Mr. Armson  
20 was involved in discussing clearcuts during his  
21 evidence in Panel 9 which was in fact taken out of part  
22 of Panel 10's witness statement in the first place, so  
23 certainly I think Mr. Armson would be somebody the  
24 Board would consider requesting a reattendance to deal  
25 with that.



1 MS. MURPHY: Again, I think that is  
2 probably -- the specifics of that - and I think my  
3 friend would probably agree - the specifics of that  
4 really don't need to be determined right at the moment.

5 THE CHAIRMAN: No, because give us a time  
6 when you think the information might be forthcoming and  
7 then we will try and work it in to wherever we are in  
8 the case at that point in time.

9 MS. MURPHY: Fine. I have -- the other  
10 exhibit, Exhibit 443, this letter was faxed to my  
11 office and I believe received on Tuesday and, frankly,  
12 when I looked at it my -- I understood the question had  
13 been posed previously in an interrogatory and answered.  
14 My information was that the question had been posed  
15 previously to Mr. Armson and answered and, frankly, it  
16 is sitting on my desk and I haven't done anything else  
17 with it.

18 It was received the day -- it was an  
19 interrogatory to Panel 10 received the day that Panel  
20 10 or the day before Panel 10 was scheduled to take the  
21 stand. Frankly, I have no idea what to do with it and  
22 I haven't made any decisions or asked certainly these  
23 witnesses to deal with it at this point in time. I am  
24 at a bit of a loss with what to do with the question in  
25 any event.

1 MS. SWENARCHUK: Mr. Chairman, I think  
2 you will recall that Mr. Armson's answer to my question  
3 on this was that he didn't have information about it.

4 As I say, I am quite open to how this  
5 information should be dealt with, but I think it is a  
6 relevant question as to how harvest is conducted and I  
7 would be prepared to put the same question to a member  
8 of this panel, if Ms. Murphy would prefer that I do  
9 that. I am not aware of a previous interrogatory on  
10 the point, but there may well be, if she wants to  
11 direct me to it. I haven't had a chance to  
12 review --

13 MS. MURPHY: I don't have my material  
14 here. I do believe there is an interrogatory. In any  
15 event, perhaps it is best for me to just have some  
16 words with Ms. Swenarchuk about it. It may be, you  
17 know, as simple as simply to ask the panel.

18 THE CHAIRMAN: Well, we certainly recall  
19 that a question of this nature was asked previously and  
20 an answer --

21 MS. SWENARCHUK: Relating to Mr. Armson,  
22 Mr. Chairman?

23 THE CHAIRMAN: I believe so. --and an  
24 answer was not provided due to the fact that that  
25 particular witness was unable to provide an answer.

1 And whether or not an answer can be provided is up to  
2 the Ministry in terms of whether it is in a position  
3 and what kind of information will be required.

4 This would fall into the category, Ms.  
5 Murphy, under the interrogatory process, that if the  
6 Ministry is unwilling to answer it or is unable to  
7 answer it, that the Board should be spoken to and the  
8 Board will determine whether or not it wishes to issue  
9 a ruling that it should or should not be answered.

10 MS. MURPHY: And if I were going to speak  
11 to this specific question to the Board, which I am not  
12 doing right now, I would want to look back at that  
13 interrogatory, at Mr. Armson's evidence and perhaps  
14 talk to Ms. Swenarchuk. I am just at a loss right now.

15 THE CHAIRMAN: Okay. Well, I don't think  
16 it would be appropriate for the Board to deal with this  
17 specific item at this time. So that you have those  
18 informal discussions and if you want to raise it again  
19 before the Board, then we will deal with it at a later  
20 date.

21 Now, Ms. Murphy, perhaps we might  
22 consider dealing, if possible, with the methodology  
23 before we break--

24 MS. MURPHY: Well, that would be --

25 THE CHAIRMAN: --next week, because I

1       presume that if you do get agreement you will want to  
2       commence gathering this information.

3                   MS. MURPHY:  If I might have one minute  
4       to speak to my friend Mr. Kennedy.

5       ---Discussion off the record

6                   MS. MURPHY:  It is going to depend very  
7       much what happens on Monday when we get people  
8       together.  We will advise, certainly as soon as  
9       possible, whether we are going to come to some kind of  
10      agreement during next week.  And, if we do, we  
11      certainly would file that and, if we don't, we will  
12      give you some idea when.

13                  THE CHAIRMAN:  All right.  And if you  
14      can't, and it is going to take further discussions,  
15      then you might consider, if there is agreement, filing  
16      it with the Board during the break.

17                  MS. MURPHY:  Certainly, as soon as  
18      possible.

19                  THE CHAIRMAN:  If there is agreement and  
20      if the Board has no concerns, we might just advise you  
21      during the break to go ahead and start gathering the  
22      information without losing the time during the break.  
23      If, of course, there isn't agreement, then that's  
24      another matter that will have to be spoken to.

25                  Does anyone have any objections with



1       that?

2                   MS. MURPHY: I think we can manage  
3 something like that.

4                   MR. CASSIDY: It is just a matter of  
5 sorting our timing out. Monday may be a difficulty for  
6 me to get someone on such short notice, but I will do  
7 my best and discuss that over the break with Ms. Murphy  
8 in terms of timing.

9                   THE CHAIRMAN: Okay. With respect to the  
10 second issue, Exhibit 433, might we dispose of that?

11                   MS. SWENARCHUK: 433?

12                   THE CHAIRMAN: The second letter, 443, I  
13 am sorry, 443. Might we dispose of that next week  
14 before we break?

15                   MS. MURPHY: I am sure we can do that.

16                   THE CHAIRMAN: You should be able to  
17 discuss with Ms. Swenarchuk where you are going with  
18 that one.

19                   MS. MURPHY: Yes.

20                   THE CHAIRMAN: Okay. Now, the --

21                   MR. CASSIDY: Mr. Chairman?

22                   THE CHAIRMAN: Yes.

23                   MR. CASSIDY: I'm sorry, but in terms of  
24 443, I believe I was the party who raised it here this  
25 morning and I would like to be kept informed of the

1 developments on that in terms of whether or not it is  
2 going to be addressed by a panel, whether or not it is  
3 going to be provided subsequently. Again, I may want  
4 to cross-examine on that information and I wouldn't  
5 want to be sort of left behind on this process.

6 THE CHAIRMAN: Okay. I can understand  
7 the interest your clients in that particular issue, so  
8 I would suggest that, again for this issue, discussions  
9 be held with Mr. Cassidy as well.

10 MS. MURPHY: Yes. Well, if we are all  
11 getting together at some stage we can probably deal  
12 with both matters.

13 THE CHAIRMAN: Very well.

14 MR. CASSIDY: Thank you.

15 THE CHAIRMAN: Okay. Are there any  
16 further items with respect to these matters and, if  
17 not, we will move on to the question concerning Dr.  
18 Baskerville.

19 Now, as some of you may be aware, a  
20 letter was received from the Ontario Federation of  
21 Anglers & Hunters, it is dated March the 2nd and it  
22 puts forward their position with respect to the Board's  
23 earlier suggestions of perhaps calling Dr. Baskerville  
24 as the Board's witness. And I think this has been  
25 distributed to the parties and we may be referring to

1       it in our discussion today, notwithstanding the  
2       Federation's absence from the proceeding.

3                       As you will recall, Dean Baskerville has  
4       been involved in a peripheral way with this hearing by  
5       virtue of his report which was the Audit entered as  
6       Exhibit No. 16, and since the Audit Document was  
7       entered various parties from time to time, including  
8       the Ministry, have referred to that report and there  
9       has been an attempt on many parties to try and  
10      interpret what Dr. Baskerville meant in terms of  
11      certain statements made in that report.

12                     The Board feels, and has felt for some  
13      time, that it would be helpful for Dean Baskerville to  
14      attend the hearing, if he were willing to do so, and  
15      clarify some aspects of his report.

16                     And we have been grappling, I think for  
17      some months now, with an appropriate set of  
18      circumstances in which to call Dean Baskerville because  
19      we fully realize that his evidence doesn't place him in  
20      a situation where several of the parties would  
21      necessarily want to call him as their own witness.

22                     As a consequence of that, the Board has  
23      felt that perhaps the best way to handle this matter  
24      might be for the Board to call Dean Baskerville as its  
25      witness and it derives its statutory authority for that

1 kind of thing from Section 18(9), I believe, of the  
2 Environmental Assessment Act.

3 Subsection 9 of Section 18 says:

4 "The Board may appoint, from time to  
5 time, one or more persons having  
6 technical or special knowledge of any  
7 matter to enquire into and report to the  
8 Board and to assist the Board in any  
9 capacity in respect of any matter before  
10 it."

11 And the Board might consider calling Dean Baskerville  
12 under those provisions.

13 Now, the Board feels that it should not  
14 be in the position with this witness of being both  
15 interrogator and adjudicator at the same time and, as a  
16 consequence, we feel that the appropriate way to  
17 proceed, if we were to go that route, would be for the  
18 Board to retain legal counsel who would then fulfill  
19 two functions:

20 Counsel would lead Dean Baskerville  
21 through a direct examination and would be available to  
22 protect Dean Baskerville in terms of cross-examination;  
23 in other words, to act on his behalf to ensure that any  
24 questions put to him in cross-examination were  
25 appropriate and proper, and to also be available to



1 deal with a re-examination on matters arising out of  
2 cross-examination.

3 In doing so, we do not feel that Dean  
4 Baskerville should be attending this proceeding on the  
5 basis of looking at everything that's gone on to date.  
6 We have got close to eight or nine month's worth of  
7 testimony and evidence on the record to date and we  
8 will have many more months probably before we are  
9 suggesting that Dean Baskerville appear.

10 What we are essentially concerned with I  
11 think are two aspects; one being what clarification can  
12 he give with respect to the report filed as Exhibit 16.  
13 The second area that we might consider his appearance  
14 would be, in terms of being helpful to the Board and  
15 the parties, is eliciting his opinion on the Ministry's  
16 planning process to be set out in Panel 15, and that  
17 might include the monitoring side of that process which  
18 is going to be addressed, I understand, in Panel 16.

19 As we understand it, Panel 15 has within  
20 it evidence concerning the Ministry's action plan which  
21 was, to some extent, a response to some of the concerns  
22 raised by Dean Baskerville in his Audit and that panel,  
23 as well as 16, sets out the Ministry's proposed timber  
24 management planning process including its monitoring  
25 provisions, and it might be helpful to have this

1 witness' opinion on the Ministry's proposal.

2 Now, we will certainly want to hear from  
3 counsel about the Board's proposal. What we would be  
4 suggesting, I think, is to instruct the Board's counsel  
5 to confer with counsel for other parties so that the  
6 questions put to Dean Baskerville in direct examination  
7 would also cover some of the other parties' concerns,  
8 so that when questions are being asked about aspects of  
9 Dean Baskerville's report, the concerns raised by some  
10 of the other counsel to date could be addressed.

11 And we would also have the Board's  
12 counsel consult with the counsel for other parties as  
13 to the so-called terms of reference of Dean  
14 Baskerville's proposed participation in this  
15 proceeding, and our counsel would be a liaison between  
16 the other parties in terms of this specific witness.

17 Now, again, it would be the Board's  
18 counsel that would contact Dean Baskerville to put  
19 forward the Board's proposal, if that is the route that  
20 the Board decides to go, and arrange with him the terms  
21 and conditions of his appearance.

22 Everything between the Board and Dean  
23 Baskerville would be done in open forum, there would be  
24 no private meetings between the Board and Dean  
25 Baskerville - notwithstanding that the Board calls Dean

1 Baskerville nominally as its witness - and the Board  
2 would have no discussions whatsoever directly with Dean  
3 Baskerville that is not conducted openly in this  
4 hearing forum on the record. The Board also wishes to  
5 state that we would view Dean Baskerville's appearance  
6 as another witness in this hearing. He would be in no  
7 different position than any other witness to this  
8 hearing.

9 It just seems to the Board, and I think  
10 some of the parties, that there is an individual who  
11 has spent some time looking at the timber management  
12 question in this province originally on behalf of the  
13 Ministry and is a knowledgeable person in this field  
14 and it would be unfortunate, I think, if the Board and  
15 the other parties did not have the opportunity to hear  
16 this individual's views, to question him and to  
17 cross-examine him on his views, and that is the reason  
18 why the Board is suggesting proceeding in this manner.

19 So that is the basic proposal. We have  
20 sort of some indication from some of the parties in  
21 terms of the Federation of Anglers & Hunters that they  
22 would be agreeable, from their point of view, to the  
23 Board calling Dean Baskerville as its witness, although  
24 we are not in agreement with all aspects contained in  
25 their letter.

1                   I think at this time we will throw it  
2           open for discussion. Ms. Murphy?

3                   MS. MURPHY: Thank you. I promise I will  
4           be five minutes. First of all, I would like to advise  
5           that the Ministry of Natural Resources fully supports  
6           the proposition that Dean Baskerville be called as a  
7           witness for the Board.

8                   As you pointed out yourself, Mr.  
9           Chairman, the writings of Dean Baskerville have been  
10          referred to, interpreted and relied on by virtually  
11          every person who is a party and certainly having Dean  
12          Baskerville here as the Board's witness lends a  
13          fairness aspect to this thing that is very important.

14                  I don't think there will be any dispute  
15          that Dean Baskerville's expertise in certain matters  
16          would definitely be of assistance to the Board and  
17          there is no question that he is a knowledgeable person  
18          in many of the fields that are being covered here.

19                  Just for the record, so that it is clear,  
20          the rules of the Board do contemplate of course this  
21          kind of proceeding, although it is unusual. Certainly  
22          it was thought about both by the Board in drawing up  
23          its rules and of course by the Rules Committee.

24                  Rule 30 of the Board's rules deal with  
25          expert witnesses called by the Board and does, of



1 course subject to your further consideration, set out  
2 some matters with respect to procedure when dealing  
3 with that kind of a witness. So this is Rule 30 and  
4 several subsections that deal with that matter of the  
5 Board's rules.

6 A second rule of course that is relevant  
7 here is Rule 49 which is the rule that provides for the  
8 Board retaining counsel and specifically speaks to that  
9 counsel calling the Board's witnesses. So this  
10 possibility is clearly contemplated by the rules and  
11 governed by them and covered by them.

12 There are, of course, other issues that  
13 you raise. In particular, I would suggest they are:  
14 First, when would this witness be called; second, of  
15 course, what would the role of that witness be - and  
16 that encompasses a number of complications perhaps -  
17 and; third, sort of broad category, is what procedural  
18 requirements would be required both in preparation and  
19 in his appearance.

20 I would suggest at this point in time it  
21 is premature to deal with any of those matters in any  
22 detail given that -- I would suggest that it is very  
23 important that Board counsel be retained as early as  
24 possible, that person then can have the opportunity of  
25 becoming informed, giving some consideration on the

1       role of the Board expert, the Board witness which, as I  
2       say, is unusual and I think requires a little thought.  
3       And I would also point out that this person is going to  
4       have to discuss some of these matters with Dean  
5       Baskerville obviously.

6                       There is one of these matters I would  
7       like to speak to briefly, the question of when Dean  
8       Baskerville would be called. There is a rule that does  
9       speak to this matter in your Rules of Practice as  
10      well - and, of course, that is subject to your further  
11      consideration - but I would point out to you that Rule  
12      47 sets out the order of calling witnesses.

13                     The rule is called Order of Presentation  
14      and it explains that:

15                     "Evidence at a hearing shall be presented  
16                     by parties as the Board may direct and,  
17                     in the absence of any such direction in  
18                     the following order.."

19      And it sets out the order. It has eight categories.  
20      The Board's witnesses, if any, are set out as category  
21      7; that is, the 7th set of witnesses prior to the  
22      applicant in reply.

23                     And I would suggest that it is wise to  
24      consider this rule which had been obviously thought out  
25      at the time these rules were put together. Although it

1 will be very interesting to hear Dean Baskerville's  
2 views on the evidence of the proponent, I for one would  
3 be very interested in asking Dean Baskerville his views  
4 on the evidence of other parties as well.

5 And just a comment. The document you  
6 referred to earlier, the action plan, this was the  
7 document that was prepared by the Ministry after the  
8 completion of Dr. Baskerville's report. That  
9 particular document is filed in the Environmental  
10 Assessment Document itself, it is in the Class  
11 Environmental Assessment Document, it is in Appendix 7.

12 THE CHAIRMAN: We realize that but it is  
13 going to be addressed in 15; is it not?

14 MS. MURPHY: Well, not -- I think the  
15 point is this: The action plan itself covers a wide  
16 variety of topics and the different parts of it in  
17 substance are dealt with in various panels. Panel 15  
18 deals with planning and the planning process.

19 To the extent that those matters have any  
20 relationship to the action plan, I suppose you can say  
21 that they are dealing with it, but it isn't a panel  
22 whose purpose is to deal with that action plan.

23 THE CHAIRMAN: No, no, we understand  
24 that. 15 is the overall timber management planning  
25 process of which we assumed, perhaps wrongly, that

1 aspects of the action plan would be included as part of  
2 the Ministry's proposal and, of course, as you point  
3 out, it is part of the EA.

4 MS. MURPHY: That's right. It is really,  
5 though, I think more important to recall that in the  
6 evidence of the Ministry what they are dealing with in  
7 various places is the substance of the matters dealt  
8 with in the action plan.

9 THE CHAIRMAN: Yes.

10 MS. MURPHY: That's what's important.

11 THE CHAIRMAN: Okay.

12 MS. MURPHY: So given that, I think that  
13 what we really want to do is have Board counsel  
14 retained so that we can deal with that person. I would  
15 ask you to bear in mind that Dean Baskerville's views  
16 on all of the things that might be said here would be  
17 equally of use to the Board.

18 THE CHAIRMAN: Very well. And subject to  
19 other counsel commenting as well, if the Board does  
20 decide to go ahead and retain counsel, it would be the  
21 Board's intention to retain counsel at the earliest  
22 possible time so that counsel could discuss with the  
23 parties some of the very items raised by Ms. Murphy.

24 Mr. Tuer?

25 MR. TUER: Mr. Chairman, in your remarks



1       you have anticipated a number of concerns which I have  
2       with respect to this proposal.

3               As you are aware, the right of the Board  
4       to call witnesses is contained in its own legislation;  
5       similar provisions have been in existence, for example,  
6       in the rules of the Supreme Court for many, many years.  
7       The rule, to my recollection, has rarely been utilized  
8       by the court for the very simple reason that the court  
9       has always been concerned that the witness might become  
10      or tend to become identified as its witness with the  
11      perception that it might give undue weight to that  
12      witness' evidence. And it is for that reason that I  
13      was interested to hear your remarks respecting the fact  
14      that there would be no communication between the Board  
15      and Dr. Baskerville, except as was necessary, in open  
16      process to get on with the matter.

17             I'm concerned that -- I'm speaking of  
18      perceptions here -- I'm concerned that there be no  
19      perception of special status being given to Dr.  
20      Baskerville or his evidence; I'm concerned that he not  
21      be perceived as usurping your function of being seen as  
22      an arbitrator, so to speak, hearing the evidence and  
23      the views of other evidence and then opining on those  
24      views themselves with the perception again that his  
25      views are being given a higher or special status by the

1 Board itself. So I urge that the matter be proceeded  
2 with with great caution so that those perceptions don't  
3 arise in anyone's mind, either party or public in  
4 general.

5 Now, the first thing that arises of  
6 course when one considers the Board calling a witness  
7 and insulating the Board from that witness, is how the  
8 witness' evidence is going to be put before the  
9 hearing. There are two aspects to Dr. Baskerville's  
10 evidence. One is the obvious one of having him  
11 available to explain and be subject to  
12 cross-examination on his report which itself is already  
13 before the hearing as an exhibit. That one is easy  
14 because Dr. Baskerville wrote the report and presumably  
15 has a good recollection of the basis upon which his  
16 comments and recommendations are made. The report is  
17 dated August the 1st, 1986.

18 The second aspect of evidence that he  
19 might give relates to the current position in Ontario  
20 and proposals that have been made or are being utilized  
21 by the Ministry since the date of his report, including  
22 matters which have occurred in response to his report.  
23 Those matters are going to require further work and  
24 thought by Dr. Baskerville and, in that respect, he is  
25 going to have to be instructed by counsel if the Board

1 is going to remain insulated from the witness.

2 I don't envy the job of counsel for Dr.  
3 Baskerville because if I were in that position I would  
4 be looking over my shoulder and asking myself: Where  
5 am I going to get my instructions. I certainly, as  
6 counsel for some parties before this hearing, would be  
7 prepared to suggest matters that Dr. Baskerville might  
8 want to consider over and above those matters relating  
9 to his report -- his existing report. However, in  
10 doing so, I certainly would not want to prejudice my  
11 right to cross-examine Dr. Baskerville.

12 In other words, I don't want to be in the  
13 position of being both leader of evidence and  
14 cross-examiner on that evidence and I have not,  
15 frankly, come up with a satisfactory idea in my own  
16 mind as to how that might be accomplished; that is to  
17 say, provide counsel for Dr. Baskerville with  
18 instructions without prejudicing the right of those who  
19 participate to cross-examine on it.

20 I might also say that it is going to be  
21 very difficult for counsel for the Board, if he is  
22 going to remain -- if he is going to have this more or  
23 less autonomous status, to come into a hearing at this  
24 stage and have much idea of what the issues are. And I  
25 say that because I'm not sure that my concern about

1 perception is going to be satisfied if the Board itself  
2 instructs counsel on matters that it wants dealt with.

3 Now, the next problem is that of when Dr.  
4 Baskerville's evidence is given and, in that regard, I  
5 don't much care. I would expect that his evidence  
6 would cover several topics, but there is no reason why  
7 his evidence can't deal with matters not yet raised  
8 before the Board.

9 However, if Dr. Baskerville is going to  
10 give his evidence after my clients give their evidence,  
11 I would want the right of reply to that evidence  
12 because, as we have argued before, my clients are in a  
13 peculiar position in this hearing -- I should say,  
14 unique position as being the operators in an  
15 undertaking, and I will use the phrase - no, I won't  
16 use the phrase special status - but they have a unique  
17 position which, in my respectful submission, ought to  
18 give them the right to reply to evidence such as Dr.  
19 Baskerville's which is itself a unique position.

20 Those are my submissions, Mr. Chairman,  
21 unless you and other members of the Board have some  
22 questions.

23 THE CHAIRMAN: I just have one question,  
24 Mr. Tuer. When you were referring to counsel for Dr.  
25 Baskerville, were you, in your mind, assuming that



1       there would also be counsel for the Board and counsel  
2       for Dr. Baskerville?

3                   MR. TUER:  No, no, of course not.

4                   THE CHAIRMAN:  Or the counsel for the  
5       Board would be, in effect, representing Dr.  
6       Baskerville?

7                   MR. TUER:  Of course.  My concern -- I'm  
8       anticipating this because I frankly think it is so  
9       obvious, that all steps have to be taken -- as you have  
10      already pointed out, sir, have to be taken to avoid  
11      this perception that Dr. Baskerville is your man and  
12      the consequences which follow upon that, and that can  
13      only be done if it's made transparently clear that Dr.  
14      Baskerville is not in any special relationship with the  
15      Board and that can only be done by insulating him with  
16      counsel, counsel who himself or herself will not be  
17      acting as a conduit between the Board and Dr.  
18      Baskerville.

19                  THE CHAIRMAN:  No.  And that, Mr. Tuer,  
20      is clearly understood by the Board in the sense that I  
21      have alluded to some of those perception problems this  
22      morning, but we would be issuing a full statement to  
23      the effect of exactly the status of Dr. Baskerville  
24      before this Board if he were in fact called as a  
25      witness, and we would be retaining counsel for the

1 Board to assist in that exercise.

2 We fully appreciate that in a hearing of  
3 this nature, or any hearing, perception is most  
4 important. Having said that, there are certain  
5 situations that have been contemplated and, in fact, in  
6 proceedings before this Board, previous proceedings  
7 where expert witnesses have been called and where, in  
8 some cases, the Board has retained counsel for that  
9 purpose.

10 MR. TUER: I understand.

11 THE CHAIRMAN: We are different from the  
12 courts in the sense that the type of proceeding we are  
13 involved in, although quasi-judicial, is - if I might  
14 use a term - investigative as well. We are seeking  
15 some of the evidence and don't always rely upon just  
16 the evidence put forward by the parties.

17 MR. TUER: I understand that. I'm not  
18 questioning your jurisdiction or the appropriateness of  
19 exercising your jurisdiction to call this particular  
20 witness. I'm just saying that -- or cautioning that it  
21 has to be done in a fashion, it ought to be done in a  
22 fashion which will eliminate the concerns that I have  
23 raised.

24 THE CHAIRMAN: Right. And we will  
25 certainly, as a Board, endeavour to do just that.

1                   MR. TUER: And again, at the same time, I  
2                   invite the Board to consider the concerns and requests  
3                   respecting my clients with respect to cross-examination  
4                   and right of reply.

5                   THE CHAIRMAN: Right. We have taken note  
6                   of those as well. Thank you.

7                   Ms. Swenarchuk, do you have some comments  
8                   on this?

9                   MS. SWENARCHUK: Mr. Chairman, as you  
10                  began your comments this morning you indicated that Dr.  
11                  Baskerville's presence in this room arises from his  
12                  having done the Audit Report of 1986.

13                 Now, it would be our submission that the  
14                 appropriate subjects for evidence for which Dr.  
15                 Baskerville should be called should be confined to the  
16                 clarification of his report and, I think in fairness to  
17                 the proponent, his comments on the action plan in reply  
18                 to the report.

19                 Further than that, in our submission, he  
20                 should not go. He is particularly expert on those  
21                 issues, on other issues including, in my submission,  
22                 the other issues of Panel 15 to which you referred, Mr.  
23                 Chairman. I think he is in no different position than  
24                 any other witness and I would not consider that there  
25                 would be a particular need for the Board to have its

1 particular witness on those questions.

2 So I would submit that his testimony be  
3 confined to, as I say, clarification of his report and  
4 his comments on the Ministry's action plan in response  
5 to that report.

6 I think, Mr. Chairman, that if he is to  
7 go further than that, there is no avoiding his  
8 requiring to essentially attempt to digest much of the  
9 evidence in this proceeding which I think would be very  
10 difficult for him; and, secondly, I think would put him  
11 in a position as an expert, having been called by the  
12 Board, that is not necessary given, as I say, how his  
13 presence here has arisen.

14 That said, if I might just comment with  
15 respect to asking his comments on the timber management  
16 planning process itself. Mr. Chairman, it would be my  
17 submission that that is the very issue that the Board  
18 is determining, the very issue which the decision-maker  
19 in this case is determining and that that issue should  
20 be left to the Board.

21 Now, that said, I think the appropriate  
22 time to call Dr. Baskerville would be at the conclusion  
23 of the proponent's case. Now, I'm sure Mr. Tuer is not  
24 surprised to hear that we all consider ourselves to be  
25 in unique positions in this hearing and any rights of



1       reply to be accorded, in our view, should be accorded  
2       to all parties equally. I think if Dr. Baskerville's  
3       evidence is restricted, as I have suggested, then the  
4       appropriate time is at the end of the proponent's case.

5                       Just another procedural question. I  
6       would assume that we would receive from him a witness  
7       statement in advance in some form as from other  
8       experts, or study and preparation?

9                       THE CHAIRMAN: Well, that will very much  
10      depend, Ms. Swenarchuk, on the terms and conditions  
11      under which he is retained to appear as the Board's  
12      witness.

13                      He, for any number of reasons - time  
14      constraints being one of them - may not be in a  
15      position to provide a witness statement and we would  
16      certainly be taking into account concerns raised by him  
17      in participating in that process.

18                      MS. SWENARCHUK: Yes. Of course it  
19      needn't be as extensive as the proponent's witness  
20      statements, but even a brief statement of what we could  
21      expect to hear from him would be helpful.

22                      THE CHAIRMAN: Well, if he is commenting,  
23      though - to use your submissions just raised - if he is  
24      going to be commenting essentially on his report that  
25      he has already submitted, his Audit Report, and perhaps

1 the action plan formulated by the Ministry partly in  
2 response to that report and nothing further, then I'm  
3 not sure that a witness statement would be that  
4 helpful.

5 MS. SWENARCHUK: I think it would be  
6 helpful with regard to his comments on the action plan.  
7 With regard to his report, clearly we know he wrote the  
8 report as he wrote it, but we -- personally I have no  
9 idea what his opinions are of the action plan of the  
10 Ministry.

11 THE CHAIRMAN: Well, we will take that  
12 into account as well.

13 Ms. Seaborn?

14 MS. SEABORN: Mr. Chairman, I think I can  
15 be very brief on this topic. Listening to the other  
16 parties' submissions there is clearly a number of areas  
17 that at least the parties who are here today are in  
18 agreement upon, and the first one is that Dean  
19 Baskerville should be a witness that will be called by  
20 the Board and; second, that Board counsel will be  
21 retained for the purpose of leading Dr. Baskerville  
22 through his evidence.

23 I think the third area where we have  
24 heard varying comments is the scope of Dean  
25 Baskerville's evidence. Mr. Tuer outlined, and quite

1       rightly so, some of the difficulties that are fraught  
2       with calling a witness such as this and it would be our  
3       position that the Board should seriously consider  
4       calling Dean Baskerville for the purpose of dealing  
5       with the Audit Report and the Ministry's action plan  
6       and those are the only issues upon which Dean  
7       Baskerville should be asked to comment.

8                       I think we should go back and think about  
9       the reasons why parties have indicated it would be  
10      interesting to hear from Dean Baskerville and one of  
11      the major reasons was that, during cross-examination of  
12      the earlier panels, we found ourselves in a situation  
13      where we were -- a lot of hearsay evidence was going  
14      into the record because witnesses were trying to  
15      interpret what Dean Baskerville may or may not have  
16      meant by particular paragraphs of the Report. I was  
17      always under the impression that the purpose of having  
18      Dean Baskerville here was so that parties could ask him  
19      what he meant by his report, rather than doing that  
20      through MNR witnesses.

21                      So for the reasons that Mr. Tuer, and to  
22      some extent Ms. Swenarchuk, has outlined we would urge  
23      the Board to seriously consider restricting his  
24      appearance to those portions of the evidence.

25                      In terms of the timing when Dean

1 Baskerville should go in the order of proceedings, to  
2 some extent, that depends on what the Board's ruling is  
3 with respect to the extent of his evidence. If the  
4 Board is of the view that Dean Baskerville's comments  
5 should be limited to the report and the action plan,  
6 then we would agree with Ms. Swenarchuk that the  
7 appropriate time to have him called would be at end of  
8 MNR's case. That would solve any procedural difficulty  
9 with other parties wanting the right of reply, as Mr.  
10 Tuer brought up and MNR, of course, would have its  
11 normal right of reply at the end of their case. So  
12 that would avoid any procedural difficulties in terms  
13 of having to have Dean Baskerville here more than once,  
14 which I think is not something that anyone could expect  
15 of Dean Baskerville.

16 If it is the Board's position that Dean  
17 Baskerville's evidence should be broader than what is  
18 contained in his Audit Report, then as Ms. Murphy  
19 pointed out, the procedures for how that should work  
20 will have to be left until such time as Board retains  
21 counsel so that all counsel involved can consult with  
22 Board's counsel as to the actual procedures with  
23 respect to his evidence.

24 We don't think at this time that there is  
25 any necessity for a witness statement to be filed and



1       that again depends on the Board's ruling with respect  
2       to the breadth of his testimony.

3                       Thank you.

4                       THE CHAIRMAN: Thank you.

5                       Mr. Edwards?

6                       MR. EDWARDS: Thank you, Mr. Chairman. I  
7       will be very brief. It is the submission on behalf my  
8       client that it would be inappropriate to attempt to  
9       qualify Dean Baskerville as an expert on the very  
10      question the Board has to decide. I think he should be  
11      limited in the scope of his testimony to commenting on  
12      his report and indeed responding to the Ministry's  
13      action plan.

14                      Again, I adopt Ms. Swenarchuk's documents  
15      with respect to the right of reply. I think this would  
16      be opening a Pandora's box. If one party was given the  
17      right to reply to his evidence, I think everybody would  
18      want it and, indeed, everybody would deserve it. I  
19      think the appropriate time to have him called,  
20      therefore, is at the conclusion of the proponent's  
21      case, then all of the other parties and indeed the MNR  
22      would have the right to respond to those areas raised  
23      by Dean Baskerville in his evidence.

24                      Thank you, Mr. Chairman.

25                      THE CHAIRMAN: Thank you, Mr. Edwards.

1                   Do any of the other parties present who  
2                   are unrepresented by counsel wish to comment on the  
3                   matters just raised with respect to Dean Baskerville?

4                   MR. McKIBBON: No comment.

5                   THE CHAIRMAN: Very well. Okay. I don't  
6                   think we have anything further with respect to this  
7                   question. The Board will consider the representations  
8                   made by the parties today and we will advise you  
9                   probably some time next week of its decision with  
10                  respect to the manner in which Dean Baskerville will be  
11                  called.

12                  In the meantime, the Board will be making  
13                  probably inquiries as to the possibility of retaining  
14                  at an early stage Board counsel. I think there is  
15                  little doubt that the Board will come back next week  
16                  and indicate that it would be intending to call Dean  
17                  Baskerville. Some of the things that still remain to  
18                  be dealt with, though, are the scope of his evidence  
19                  and any other procedural matters such as timing that  
20                  were raised today.

21                  MS. MURPHY: And would those matters --  
22                  just so that I am clear, would those matters really -  
23                  the scope of the evidence, the timing and so forth -  
24                  really still be left to further discussion with  
25                  counsel?

1                   THE CHAIRMAN: Yes, yes. But I think we  
2 would be able to indicate next week our views with  
3 regard to whether or not his evidence should just be  
4 restricted to the Audit and the action plan.

5                   MS. MURPHY: I'm sorry, I missed that.

6                   THE CHAIRMAN: Sorry, I think we would be  
7 able to indicate next week as to the Board's views as  
8 to whether the evidence to be dealt with by Dean  
9 Baskerville should be confined to just the Audit Report  
10 and the action plan, and we might be able to indicate  
11 as well the Board's preliminary views as to the timing.  
12 And then we would indicate that, upon retaining  
13 counsel, the details of that would be worked out with  
14 the rest of the parties.

15                  MS. MURPHY: Well, if you are planning to  
16 go that far, then I would like to reply for just a  
17 couple of points.

18                  THE CHAIRMAN: Very well.

19                  MS. MURPHY: What has been suggested then  
20 is that Dean Baskerville should deal with his report,  
21 clearly there is no issue about that. And then it has  
22 generally been suggested that he could then also deal  
23 with the action plan and that you could stop at that  
24 point.

25                         I would just like to point out a couple

1 of things. First of all, it should be kept very  
2 clearly in mind that when Dean Baskerville did his  
3 report in 1986 he did not look at the new timber  
4 management planning process, all of the units that he  
5 looked at and all of the plans that he looked at were  
6 done under previous processes and he did not have the  
7 opportunity to look at anything else. So that that  
8 report then is quite limited in that -- to that degree,  
9 bearing in mind that the new timber management planning  
10 manual which will be discussed later on didn't come  
11 into use until 1986. So that is one thing that is  
12 important.

13 The other thing that is important, I  
14 would ask you to bear in mind, is that people are sort  
15 of lumping in a lot of things into the action plan. I  
16 would suggest it isn't such a simple matter to ask Dean  
17 Baskerville to simply come and comment on the action  
18 plan. I have asked you to look -- or I have pointed  
19 out that the action plan itself is in Appendix 7 of the  
20 Class Environmental Assessment Document itself. The  
21 substance of the things set out in that -- it's a very  
22 short document but the substance of it, from my quick  
23 review, has matters in it that were dealt with in  
24 Panels 3, 4, 15, 10, 8, 7.

25 The point is that you can't -- I would



1 suggest that you can't simply say that is any kind of  
2 limit. Saying we would like you to comment on the  
3 action plan is really asking him to comment on the bulk  
4 of the evidence of the proponent, in my view, and it is  
5 also important to bear in mind that he hasn't looked at  
6 the timber management planning process.

7 Given that and given that background, I  
8 would suggest that it is important to keep in mind that  
9 while this gentleman is -- it is agreed by the parties  
10 that this gentleman knows a great deal about certain  
11 things and if he is going to be of assistance to the  
12 Board on those things, it is still my respectful  
13 submission, sir, that he should be giving you  
14 assistance on other peoples' comments on those matters  
15 as well and not just the case of the proponent.

16 THE CHAIRMAN: Well, it may well be, Ms.  
17 Murphy, that we may have to wait until counsel is  
18 retained so that counsel can have discussions with all  
19 of the parties as to the exact limits which may or may  
20 not be placed on his evidence.

21 But I think we have got relative  
22 agreement that he should be called as the Board's  
23 witness, the Board should have independent counsel to  
24 deal with that witness and the matters that remain to  
25 be determined are the timing of his appearance and the

1 scope of the matters with which he will deal. And  
2 perhaps that might be better left, to some extent, to  
3 further discussions by Board counsel and counsel for  
4 the other parties.

5 MS. MURPHY: Thank you.

6 THE CHAIRMAN: Anything else in terms of  
7 this issue?

8 (no response)

9 Ladies and gentlemen, we can't sit much  
10 past two. We are suggesting the possibility of a half  
11 hour break and could we then deal with Mr. Oldford  
12 further? What are you going to deal with today?

13 MR. FREIDIN: Well, Mr. Oldford is very  
14 keen to finish today.

15 THE CHAIRMAN: Okay. Well...

16 MR. FREIDIN: And I think--

17 THE CHAIRMAN: If we came back --

18 MR. FREIDIN: --if we came back at  
19 twelve, I think we have got a pretty good shot at  
20 finishing by two.

21 THE CHAIRMAN: Okay. Well, why don't we  
22 try and do that then. We will return at twelve.

23 Thank you.

24 ---Luncheon recess taken at 11:35 a.m.

25 ---Upon resuming at 12:05 p.m.

1 THE CHAIRMAN: Thank you, ladies and  
2 gentlemen. Please be seated.

3 Ms. Koven left her hearing book upstairs,  
4 she will return in a moment.

5 Very well, Mr. Freidin.

6 MR. FREIDIN: Thank you.

7 DAVID LOWELL EULER,  
8 PETER PHILLIP HYNARD,  
9 JOHN TRUMAN ALLIN,  
10 RICHARD BRUCE GREENWOOD,  
11 CAMERON D. CLARK,  
12 GORDON C. OLDFORD, Resumed

13 CONTINUED DIRECT EXAMINATION BY MR. FREIDIN:

14 Q. Now, Mr. Oldford, you finished the  
15 description of the three logging methods and I'm  
16 wondering whether you could go back to something that  
17 we just referred to briefly during your presentation  
18 and that is the factors which are considered or which  
19 could influence the selection of a particular logging  
20 method.

21 I would like you to perhaps outline what  
22 those factors are, indicate the influence that they can  
23 have on the selection of a particular logging method  
24 and, as well, the influence that they could have on the  
25 choice of equipment.

26 MR. OLDFORD: A. Thank you, Mr. Freidin.  
27 Mr. Chairman, we went through quite a bit of this

1 yesterday and we did see how these factors  
2 inter-related with the selection of logging equipment  
3 in the slide show, so I will try and move through this  
4 as quickly as possible.

5 The factors of stand composition, stand  
6 condition and variability. Those factors relate to the  
7 types of trees that we have in the stand, to the mix of  
8 species and, say, to the different sizes of trees.  
9 Those would be very important factors and would have to  
10 be matched with the selection of logging equipment.

11 For instance, if one had a very variable  
12 stand, a stand with large and small trees and maybe a  
13 stand with, say, some conifer and some hardwoods, a  
14 good choice of logging method would be tree-length  
15 logging. On the other hand, if you were in the Clay  
16 Belt and the stand was spruce, quite branchy, all the  
17 trees very much the same, I believe you would want to  
18 use full-tree logging for obvious reasons.

19 Moving on to the matters of terrain and  
20 site. We talked about the different sites we could use  
21 with different pieces of equipment and the same pieces  
22 of equipment if they were modified by, say, taking a  
23 skidder with narrow tires that you could use on sites  
24 with good-bearing capacity and adding wide tires and  
25 working on even wet sites in the Clay Belt in the



1 frost-free season. That is another prime example. So  
2 on those sites full-tree logging during the frost-free  
3 season with wide tires is quite good management.

4 We talked about economics and the need  
5 for the forest industry to be able to use a logging  
6 method over a wide range of sites and using that  
7 logging method with good judgment, there -- in my  
8 opinion, in my considered opinion, there is very little  
9 risk of site damage.

10 We talked about labour and safety and the  
11 fact that we do have today changing values in the work  
12 place, that we haven't got the people that are going to  
13 work the way that they worked many years ago. That  
14 leads us to an increase -- an increased move to  
15 mechanization and through that mechanization I believe  
16 the industry, the province can offer good jobs to  
17 workers. I want to come back to labour and safety  
18 because I believe that is a key point and important for  
19 the Board to fully appreciate the significant impact in  
20 this area of the move to full-tree logging.

21 With respect to the silvicultural  
22 considerations, we talked about the fact that if we  
23 were going to regenerate by natural means we could use  
24 a tree-length logging method on a jack pine site where  
25 the tops and the cones would remain on the site and

1 provide the means for renewal.

2 On the other hand, we also spoke about  
3 the need to plant some areas and in those areas, as a  
4 practising forester, I saw extremely beneficial reasons  
5 for the slash to be removed from the site and moved to  
6 roadside. And by the way, that slash at roadside, if  
7 it is the choice of the professional forester, can be  
8 easily disposed of through burning, a process of  
9 prescribed burning.

10 On the other hand, over a period of a  
11 couple of years, three years, four years after  
12 successive winter snows fall on this slash, it  
13 deteriorates and in a very short time it also comes  
14 back into full production and trees can be planted and  
15 trees do grow there.

16 Q. I understand that you have a couple of  
17 slides that actually I think arose out of Mr. Hynard's  
18 evidence that you would like to show?

19 A. Actually it is a good time to show  
20 them right now. I was going to move on to other values  
21 but we will come back to that one.

22 MR. FREIDIN: The slides which are going  
23 to be shown are Exhibit 436 and the order should be  
24 slide 1.1.2, 1.1.7, and 1.1.8.

25 MR. OLDFORD: The key reason why I feel

1       why I want to show those two slides and -- actually  
2       there are three.

3                   MR. FREIDIN:  Q.  Mr. Oldford, that is  
4       slide 1.1.7?

5                   MR. OLDFORD:  A.  And this is slide -- I  
6       don't have the numbers, Mr. Freidin, but you -- this is  
7       slide 1.1.7.  Thank you.  And I pulled these slides out  
8       of Mr. Hynard's presentation yesterday.

9                   My purpose of showing these is to provide  
10       what I think are good examples of the range of sites  
11       that one logging method can be used on and I will flick  
12       through them quickly and you can appreciate the  
13       difference in the sites.

14                   This is a jack pine site in Bragg  
15       Township on the Iroquois Falls FMA and it has been  
16       full-tree forwarded and you can notice there is very  
17       little slash on the ground.

18                   MR. FREIDIN:  That was 1.1.2, Mr.  
19       Chairman.  This is now 1.1.7.

20                   MR. OLDFORD:  1.1.7.  This is a spruce  
21       site, a lowland spruce site that has been logged very  
22       carefully, even though to the untrained eye it looks  
23       like there is a significant amount of disturbance, but  
24       the organic layer is well protected, the little bit of  
25       area in the middle is where the forwarder and the

1 skidder moved, but there is considerable advanced  
2 regeneration and practically a forest ready to start  
3 right after logging between the cut strips.

4 And on this site the company would  
5 normally, if the area where the machinery travelled did  
6 not regenerate, would come back and plant in a year or  
7 two, maybe even five years. They might wait until the  
8 fifth year surveys.

9 And that site, sir, about four years  
10 later looks just about like this. That is very typical  
11 of what it looks like.

12 MR. MARTEL: Was that last picture  
13 tree-length or full-length?

14 MR. OLDFORD: That is full-tree, sir.

15 MR. MARTEL: That is full-tree?

16 MR. OLDFORD: That is full-tree. So the  
17 purpose was to show you the range of sites that you can  
18 use full-tree logging on.

19 MR. FREIDIN: Q. And they were different  
20 types of clearcuts as well; were they not, the first  
21 one being a clearcut and the second one being a strip  
22 clearcut? No?

23 MR. OLDFORD: A. They are both  
24 clearcuts. The first one, the one that we saw about  
25 jack pine, that was just strictly a plain clearcut with



1 all the tops and branches and limbs that come to  
2 roadside as a result of a skidding activity, some get  
3 broken off and stay on the site. That is what that one  
4 was.

5 The second one was a clearcut where the  
6 company had very definite ideas, it wanted to protect  
7 as much of the advanced regeneration as possible and  
8 that is the seeds -- the trees that have regenerated  
9 from seed and the layering that Mr. Armson referred to.  
10 And that is the area -- that is the type of operation  
11 that I referred to as the harvest and regeneration  
12 option.

13 I guess the key messages here are these  
14 are very different sites, they are different tree  
15 species, and they are -- they have different  
16 silvicultural objectives. As a matter of fact, this  
17 morning about six o'clock when I was thinking of the  
18 evidence I was going to have to give today, I called  
19 Nick Salterelli, the superintendent of Abitibi,  
20 regarding the Bragg site.

21 THE CHAIRMAN: Did he appreciate that you  
22 called at that hour?

23 MR. OLDFORD: I don't think his wife did  
24 but I think Nick does appreciate the importance of  
25 these hearings so he was most cooperative. And I asked

1 him about that Bragg site, the jack pine site, and he  
2 said: That was cut over a period of five years, from  
3 1980-85 and in 1986 it was tree planted. And I asked  
4 him, I said: There wasn't much slash on that site. To  
5 what extent did you have to site prepare it. Because  
6 when we remove a lot of slash from the site one of the  
7 big advantages is we can save considerably on site  
8 preparation and save also on planting because, and I  
9 know that from the planting - all the planting tenders  
10 in the province come through my office one time or  
11 another for approval, going through the approval  
12 process.

13 And he said: We only had to site prepare  
14 about one third of that site and we planted the whole  
15 site. So that type of logging which removes the slash  
16 afforded that company considerable savings there.

17 MR. FREIDIN: Q. And, Mr. Oldford, when  
18 you said that those two sites that you showed had  
19 different silvicultural objectives, were you speaking  
20 to the objective in terms of renewal method?

21 MR. OLDFORD: A. Yes. Before those  
22 sites were harvested both companies had clearly in  
23 their mind the approach that they were going to take to  
24 renew those sites.

25 As a matter of fact, like that jack pine

1 site, that would be built into the planning process so  
2 far in advance that our Ministry would be required to  
3 grow the seedlings that the company was going to use to  
4 plant the area. You know, it is quite a continuum with  
5 a lot of inter-relationships.

6 Q. We can have the lights I think back.

7 A. On the Ford Township site, that was a  
8 spruce site. I tried to get Kent Vergo out of bed but  
9 he was in the Caribbean. But I did call one of our  
10 unit foresters and he assured me that that site had  
11 regenerated very well and that he was on it not very  
12 long ago. So that is the success story there.

13 Q. Now, I think the only thing we have  
14 left out in terms of factors was the factor of other  
15 values.

16 A. Yes, that's right. And I can think  
17 of many ways that logging methods get amended or  
18 modified to protect other values and these other values  
19 are becoming more and more important every day.

20 And I think of the fact that we would  
21 use, say, the tree-length logging method in the forest  
22 in Mr. Hynard's area to protect the residual trees that  
23 we are going to leave to form the future stand in a  
24 selection harvest system. We would probably want to  
25 use the full-tree logging method if we were logging

1 alongside of a major highway corridor because I can see  
2 the benefits of speedy renewal and I can see the  
3 benefits that Mr. Martel seemed - not necessarily  
4 allude to benefits - but he questioned slash, as to  
5 whether somebody thought it looked good or didn't look  
6 good.

7 And my experience is that people come in  
8 and say: That is a lot of debris there, and that is  
9 one case where we could use full-tree logging. I would  
10 leave it on those two examples, Mr. Freidin.

11 Q. Okay. Now, you have indicated that  
12 you wanted to come back to labour and safety for a  
13 moment.

14 MR. FREIDIN: And, Mr. Chairman, I took  
15 the time during the break to give everyone a copy of  
16 one sheet - I gave two to Ms. Koven - in relation to an  
17 excerpt from the 1987 Annual Report of the Forest  
18 Products Accident Prevention Association. I would like  
19 that to be marked as the next exhibit.

20 THE CHAIRMAN: Exhibit 444.

21 ---EXHIBIT NO. 444: Excerpt from the 1987 Annual  
22 Report of the Forest Products  
Accident Prevention Association.

23 MR. FREIDIN: Q. Now, Mr. Oldford, could  
24 you perhaps advise the Board what this particular  
25 exhibit shows and why you in fact have produced it?



1                   MR. OLDFORD: A. Well, I felt just from  
2 my experience that the move to mechanical logging was  
3 having a significant impact on safety, it would really  
4 improve the safety record in the industry, and I felt  
5 that because of my experience on the east coast in  
6 Newfoundland where we were attempting to find  
7 mechanized systems for harvesting shortwood, and one of  
8 the key objectives we were looking at was increasing  
9 improvement in our safety program.

10                   So at the time that I prepared my  
11 evidence in, I believe it was around November --  
12 October/November, I hadn't researched that, but I was  
13 curious and I called Mr. Nugent, the General Manager of  
14 the Accident -- the Forest Accident Prevention  
15 Associations and we held a discussion on that subject.  
16 And, with your permission, I would like to show a  
17 graph.

18                   MR. FREIDIN: I think this graph is  
19 probably going to be an exhibit, yes.

20                   MR. OLDFORD: That graph was taken from  
21 the 1987 Annual Report and what it does show, I  
22 believe, and shows quite clearly is a very significant  
23 drop in injuries in logging. While there was flat line  
24 in injuries, compensable injuries in saw milling and  
25 veneer milling and all of these companies have

1 comprehensive safety programs.

2 So after some discussion--

3 MS. SWENARCHUK: Mr. Chairman --

4 MR. OLDFORD: --we were both convinced --

5 THE CHAIRMAN: Excuse me a moment, Mr.

6 Oldford.

7 MS. SWENARCHUK: Could we have some  
8 explanation of what companies, what area? Is this  
9 Ontario, is it Canada, is it the area of the  
10 undertaking? What does this relate to, please?

11 MR. OLDFORD: It is the 1987 Annual  
12 Report of the Ontario Forest Products Accident  
13 Prevention Association. In the back pages of the  
14 report are all the companies listed that are  
15 represented in these statistics.

16 THE CHAIRMAN: Perhaps we should also  
17 file a copy of the report. Could we do that, Mr.  
18 Freidin?

19 MR. FREIDIN: Sure.

20 MR. OLDFORD: Yes. In preparation for  
21 that I believe we ordered a dozen copies.

22 THE CHAIRMAN: That should give you the  
23 information you need.

24 MR. MARTEL: How many employees -- might  
25 I ask one question, Mr. Oldford. How many employees --

1       you said yesterday, tremendous reduction in the number  
2       of employees in the bush as opposed to previously with  
3       mechanization. How many employees have left since '84  
4       to the present, to put this in context?

5                   MR. OLDFORD: Mr. Martel, I wouldn't be  
6       able to answer that.

7                   MR. MARTEL: Oh, it might be in here?

8                   MR. OLDFORD: It may give man days of  
9       work. I doubt it would list numbers of employees, but  
10      it does list numbers of employees by firms that  
11      reported. And I am certain if there are any particular  
12      and more extensive analyses of this material required,  
13      it could be obtained through the general manager of  
14      that association.

15                  THE CHAIRMAN: All right. Let's mark  
16      that report itself, the 1987 Annual Report of the  
17      Forest Products Accident Prevention Association as  
18      Exhibit No. 445.

19      ---EXHIBIT NO. 445: 1987 Annual Report of the Forest  
20                              Products Accident Prevention  
                                  Association.

21                  MR. FREIDIN: Q. Can you advise whether  
22      that change in the compensable injuries due to logging  
23      over that period of time is coincident with any other  
24      change within logging during the approximate same  
25      period of time?

1                   MR. OLDFORD: A. Well, Mr. Nugent, in my  
2 discussion with him, was quite convinced that the  
3 decline in the number of injuries - and the decline was  
4 in the order of 40 per cent - was mainly due to the  
5 increased mechanization in the logging of the forest.

6                   But we discussed the matter further and  
7 we also agreed there were three other contributing  
8 factors: One being better training and better training  
9 and better safety programs in the industry because that  
10 is continually improving, there is no doubt about that;  
11 the other being continued improvements in chain saw  
12 design, they are getting lighter and better; and the  
13 third factor, an important factor too, is the fact the  
14 industry has been relatively stable and there have not  
15 been a lot of new entrants to the work force,  
16 relatively speaking, and I guess that stability  
17 reflects on probably the maturity and the experience of  
18 the worker.

19                   Q. Mr. Oldford, do you feel comfortable  
20 giving an approximation of the percentage of full-tree  
21 harvesting that uses mechanized fellers?

22                   A. I feel moderately comfortable. I  
23 know some companies that use the full-tree system, but  
24 instead of using feller-bunchers, the machines to fell  
25 the trees, they fell them with chain saws. That is



1 somewhat declining but I would say in the order of 70  
2 per cent of the wood is mechanically felled.

3 Q. Is there any reason for the majority  
4 of the felling in the full-tree system being done by  
5 the use of mechanical harvesters?

6 A. Yes, some very strong reasons. For  
7 instance, that picture that we saw in the Kapuskasing  
8 area in Ford Township where the company was harvesting  
9 with the explicit intention of using the advanced  
10 regeneration as a renewal means, it would be very  
11 important to use mechanical fellers because the trees  
12 must fall in just the exact right sort of way. Other  
13 than that, you wouldn't be able to control the felling  
14 of the trees and protect the advanced regeneration on  
15 the site.

16 Q. Could you show us using a flip chart,  
17 just draw what you are describing in words?

18 A. Okay. I will try my best. I don't  
19 know if my artistry will be as good as Mr. Hynard's,  
20 but maybe I will do it by comparison, say, of the  
21 full-tree method to the tree-length method with  
22 skidding, and I will do it by splitting the two, and  
23 see all the different points that I would like to get  
24 in there.

25 And this is a forwarder moving down a

1 stand and with a boom that swings about 30 feet. It  
2 could go a little more than 30 feet but it likes to  
3 work a little closer than out far because of the just  
4 forces -- physical forces. It would cut the trees and  
5 lay them in a particular direction, and whichever way  
6 he lays them it particularly doesn't matter.

7 But what that allows later is a skidder,  
8 like a cable skidder or a grapple skidder to come and  
9 take all the trees out very efficiently following, just  
10 like in that photograph, the same trail that the  
11 feller-buncher used, and then he may have even laid the  
12 trees this way. That would determine really where the  
13 road is because the objective would be to get these  
14 trees to the skidway. In that case, they would all  
15 come back on trailers if you were using the system of  
16 full-tree.

17 If you were using the tree-length system,  
18 I am not going to say that there would be any  
19 difference in site damage in the Clay Belt because I am  
20 saying that both -- all machinery would be properly  
21 equipped for the site. This is a cutter working along  
22 a face. While he is felling the trees like this, and  
23 you can imagine right here you have got probably 20  
24 trees in a bunch so it would be very, very, thick and  
25 then he comes along and delimbs them so the limbs are

1 left everywhere. But he can't fell the trees all in  
2 the same direction; he gets one this way, probably one  
3 this way, one will fall back into the stand, and then a  
4 cable skidder comes out and it has to hook a cable on  
5 there and there and there, and from this site, winch  
6 them all in, and you can imagine when he winches this  
7 tree, this tree will sweep this way, that one will come  
8 pretty well, that one will come pretty well, this one  
9 will sweep this way.

10 It would have to be in the order of  
11 probably, I would say two to four times as much traffic  
12 on the site. So your chances of protecting the  
13 advanced regeneration using this mechanism, this means  
14 the tree-length logging method, would not be as viable  
15 as using this means.

16 MR. MARTEL: Can you tell me what type of  
17 equipment you are using on the tree-length because you  
18 say it is falling in different directions and I can't  
19 understand...

20 MR. OLDFORD: These trees would be felled  
21 by a cutter with a chain saw.

22 MR. MARTEL: Okay.

23 MR. OLDFORD: And there are all sorts of  
24 factors that would dictate. If the wind was blowing  
25 just right and it was blowing off the stand, he could

1       probably do a pretty good job. But if he started this  
2       space on a Monday morning and on Tuesday when he goes  
3       back there the wind is blowing the other way and there  
4       is snow on the trees, he could have a big problem.

5               There is an interesting thought I would  
6       like to leave you with right here because we often talk  
7       about skidways. In the boreal forest and in the Great  
8       Lakes/St. Lawrence Forest, skidways are often used -  
9       used all the time in the boreal forest - and it is  
10      where the full trees are brought in bunches right  
11      beside the road. There is practically no disturbance  
12      in the skidways in the boreal forest because all of the  
13      further processing is carried out by machinery that  
14      works from the road.

15             The same goes for skidways used in the  
16      Great Lakes/St. Lawrence Forest, but we will see in the  
17      video that in the Great Lakes/St. Lawrence Forest we  
18      talk about landings and landings are a lot different  
19      than skidways.

20             A landing, for instance, is an area that  
21      has been cleared of debris, the stumps pushed off,  
22      generally down to mineral soil and in the selection  
23      harvest a landing would be used probably every 15 to 20  
24      years and that is -- I think that is a critical  
25      difference for the Board to understand.



1 THE CHAIRMAN: Do you want that in, Mr.  
2 Freidin.

3 MR. FREIDIN: Yes, please.

4 THE CHAIRMAN: Exhibit 446.

5 MR. FREIDIN: Perhaps we can just mark it  
6 protection of advanced regen through full-tree harvest.

7 ---EXHIBIT NO. 446: Diagram depicting protection of  
8 advanced regeneration through  
full-tree harvest.

9 MR. FREIDIN: Q. Mr. Oldford, you  
10 described the difference between a skidway and a  
11 landing. Are landings still used in the boreal forest?

12 MR. OLDFORD: A. Yes, they are still  
13 used but not nearly as commonly as, say, in the early  
14 to mid-70s. And one of the key reasons why there is  
15 not so much demand for building landings any more is  
16 the fact that the harvesting in the boreal forest has  
17 got away from a lot of this little machinery and using  
18 this large machinery now with large tires, tracks, et  
19 cetera, it is able to traverse and work and come out to  
20 the road and deliver the trees and the delimbing phase  
21 then is done from the road. So there is really no need  
22 to create many landings.

23 And I know from practical experience when  
24 I was a practising forester I would often speak to a  
25 company person if I thought a landing had been built

1 unnecessarily or a landing had been built that was too  
2 large because they were difficult to renew, there is no  
3 doubt about it. But, on the other hand, if you were  
4 planting in the jack pine, there wasn't too much of a  
5 problem.

6 Q. Could you advise: Are mechanized  
7 fellers or coring harvesters, like you showed  
8 yesterday, are they used in a silvicultural harvest  
9 system other than a clearcut harvest system?

10 A. No, I would say not. They could be  
11 used I suppose in the shelterwood -- in the strip  
12 shelterwood, but the strips in the strip shelterwood  
13 are so narrow that -- only a couple of chains wide,  
14 that it wouldn't really be a productive use of that  
15 type of machinery.

16 Q. Okay. Mr. Oldford, does the cost of  
17 wood inventory play any role in the choice of a logging  
18 method?

19 A. Yes, I think it plays a very crucial  
20 role. As the forest sector becomes more and more  
21 competitive and as the -- and that is the case in the  
22 world today, Canada is competing to sell paper on a  
23 world market. Inventory costs, if you can avoid them  
24 by any means whatsoever, that is the thing to do.

25 The company that I was employed with,

1 Abitibi-Price in Newfoundland in years gone by, and not  
2 that long ago because they did run a lot of river  
3 drives, not so many right now, but they would normally  
4 have about a million cubic metres of wood in inventory  
5 at one stage or another, either watered wood or wood at  
6 landings in the bush or wood in the millyard.

7 And you can assume -- I guess wood is  
8 worth something in the order of -- I would say 25 to  
9 \$35 a cubic metre, you know, depending on where it is.  
10 It is worth less at the skidway. Once you get it in  
11 the mill -- in the millyard, it is probably worth \$55 a  
12 metre.

13 So you can very quickly have, if you have  
14 got a large inventory, a tremendous amount of money  
15 tied up and we all know what money is worth today.

16 Q. Does the cost involved with wood  
17 inventory have any role to play in terms of the season  
18 of operation?

19 A. Yes, it does, because if you are  
20 going to keep your inventories down you need two  
21 things: You need good all-weather road systems so that  
22 you can have continuous delivery to the mill, and you  
23 need those roads also because workers are less inclined  
24 today to drive a hundred miles north of town and stay  
25 in a camp for a week, they have other values that they

1 want to enjoy. And also you need these roads so that  
2 you can truck continuously to the mill.

3 And looking at it then from the logging  
4 methods point of view, you need logging equipment that  
5 can operate on different types of sites, maybe through  
6 an amendment in the equipment; in other words, taking  
7 off the narrow tires in the summer and putting on wide  
8 tires. So your logging equipment needs to operate on a  
9 range of sites, different conditions, lots of  
10 flexibility required.

11 Q. Now, when you speak of a road system,  
12 what kind of roads are you referring to?

13 A. Well, what I am referring to in the  
14 boreal forest is excellent primary roads coupled with  
15 good secondary roads. As you go further south, in the  
16 Great Lakes/St. Lawrence Forest, you can have a road of  
17 a lower standard that is providing your primary access  
18 because your key transport down there is on the  
19 provincial highways, but in the boreal forest you need  
20 an excellent primary road system.

21 MR. FREIDIN: Mr. Chairman, we will be  
22 getting into different types of roads in Panels 14 and  
23 15. Mr. Chairman, I would like to --

24 Q. Mr. Oldford, the errata that was  
25 filed as an exhibit has an amendment to page 153 which



1 is a chart which provides the breakdown or description  
2 of the logging systems which were used -- or, pardon  
3 me, as reported by the Canadian Pulp and Paper  
4 Association.

5 Mr. Oldford, can you advise: Are the  
6 figures in this report representing the situation for  
7 Canada or for Ontario?

8 MR. OLDFORD: A. Well, the Canadian Pulp  
9 and Paper Association publishes data from its member  
10 companies that submit to its questionnaires from across  
11 Canada and if you can see, for instance, by referring  
12 to the errata, the full-tree logging method was  
13 estimated for 1986 to be at 51.7 per cent for across  
14 Canada, but in that year there were no reports filed  
15 for British Columbia, Alberta, Saskatchewan and Nova  
16 Scotia.

17 So since the majority of the reports were  
18 filed from the other provinces, the percentages are  
19 probably more reflective of what is happening in  
20 Ontario and Quebec than the trend in Canada generally.

21 Now, what happened was - and the reason  
22 for the errata - we obtained the copy of the CPPA  
23 report that had listed full-tree logging for Canada,  
24 and that was the copy that is now in error at 42.7 per  
25 cent.

1                   MR. FREIDIN: That is what it said at  
2 page 153 originally, Mr. Chairman. The bottom line of  
3 the -- the second bottom line of the table indicating  
4 full-tree 51 -- 42.7 per cent in 1986.

5                   MR. OLDFORD: And when I took a look at  
6 that, I said: Well, that's not really that reflective  
7 of Ontario, and we ended up having some discussions  
8 with the CPPA and I have to assume that their figures  
9 got recalculated and a little time later we got a  
10 varied report which said 51.7 per cent was the  
11 percentage of full-tree logging.

12                   But by then my interest had risen  
13 somewhat and I consulted with the forest industry and  
14 spoke to Mr. Bird, the President of the Ontario Forest  
15 Industries Association, and I said: In my travels, I  
16 don't believe the 51.7 per cent is reflective of  
17 Ontario largely because of the fact that in that CPPA  
18 report shortwood was listed as 11.9 per cent, and I  
19 said I wouldn't know where to go to find 11.9 per cent  
20 of the wood being cut in this province today by the  
21 shortwood method.

22                   So we did a little more searching and we  
23 came up with the figures that we think are very  
24 reliable, within plus or minus five per cent. And  
25 those figures are shortwood, 5 per cent for Ontario -

1       and that could be a little bit high - tree-length  
2       around 30 per cent for Ontario; and full-tree at 65 per  
3       cent. These figures are not available in exact terms  
4       because there is no report completed on that for  
5       Ontario alone.

6                   Q. Mr. Oldford, that was your best  
7       estimate and along with Mr. Bird's then?

8                   A. My best estimate, and I consulted  
9       with Mr. Bird and senior officials and probably one  
10      half a dozen of the large companies in the province.

11                  Q. Thank you.

12                  MR. FREIDIN: Now, Mr. Chairman, if I  
13      might just take a brief moment, perhaps we could have  
14      the lights turned down and I could also distribute the  
15      popcorn.

16                  MR. MARTEL: Could I ask Mr. Oldford one  
17      question?

18                  MR. OLDFORD: Yes, sir.

19                  MR. MARTEL: Did you get your money?

20                  MR. OLDFORD: I did, sir, and I used it  
21      quite well last night.

22                  THE CHAIRMAN: You should have used it to  
23      fly to the Caribbean this morning to talk to that  
24      person that you couldn't contact.

25                  MR. OLDFORD: I think we should turn down

1 the mikes on the table because there might be some  
2 feedback from the video.

3 MR. FREIDIN: Mr. Chairman, perhaps I can  
4 advise you, and perhaps the other parties, this machine  
5 can be stopped if you want to take a look at something.  
6 So if you just ask Mr. Oldford to stop it so you can  
7 have a look, that is fine.

8 MR. OLDFORD: The fact that this is a  
9 video which depicts the different logging methods makes  
10 it a little bit difficult to stop and still maintain  
11 continuity, but if you have a question, if you ask, I  
12 can pause and there are a couple of occasions, but very  
13 few occasions, where I will take that initiative on my  
14 own.

15 MR. FREIDIN: One moment. Go ahead.

16 MR. OLDFORD: The interesting point for  
17 your interest is I was not with the cameraman when this  
18 was filmed, somebody else thought I had other  
19 commitments that I should attend to, but he sent the  
20 cameraman to the field with a couple of our unit  
21 foresters, Mr. Hynard being one. The cameraman was a  
22 Mr. Wally Peck, I believe he does the filming for Live  
23 It Up, and then we had the editor who -- we selected an  
24 outside editor, Mr. Dave Lefevre of, I believe, YTV and  
25 he had about, I would estimate, in the order of six



1 hours of tape to work from. I received it after it was  
2 in final form.

3 VIDEO PRESENTATION

4 LOGGING METHODS IN ONTARIO

5 MR. OLDFORD: As we were instructed by  
6 legal counsel, the only audio on the tape is the sounds  
7 associated with the equipment.

8 Naturally, the definition is first. We  
9 are going to cover the three logging methods and the  
10 first is tree-length logging in the boreal forest.

11 What you are seeing is a cutter felling a  
12 number of trees and a skidder with a cable getting  
13 ready to winch these trees in. This is the delimbing  
14 phase. As you can appreciate, this phase could lead to  
15 some injuries, especially if the worker is the least  
16 bit inattentive. This is the skidder operator pulling  
17 out the main line and getting ready to attach the  
18 chokers that I referred to earlier.

19 As you can see, both the cutter and the  
20 operator are wearing all the safety gear required,  
21 including gloves, because they are handling a cable.  
22 And this is the process of winching, and this is the  
23 type of damage that I was mentioning you could get if  
24 you were trying to protect advanced regeneration. This  
25 operator is moving a full load of tree length to

1 roadside and that is typically all that is involved in  
2 the skidway is just the tree length dropped on the  
3 organic matter.

4 This is in the Great Lakes/St. Lawrence  
5 Forest region. A different style of operation, a lot  
6 of small operators. And this operation was occurring  
7 very close to Mr. Hynard's -- was it in your management  
8 unit?

9 MR. HYNARD: (nodding affirmatively)

10 MR. OLDFORD: In Mr. Hynard's management  
11 unit. You can see the reason why mechanical fellers  
12 wouldn't be very suitable with trees this size. That  
13 tree has some rot in the butt, as a matter of fact a  
14 lot of rot in the butt and it will go to a landing and  
15 the wood will be separated by grade at the landing, and  
16 we will get to see a landing.

17 Basically the mechanical equipment is the  
18 same as you saw earlier in the boreal just a different  
19 make and bigger trees, fewer chokers. Chokers are the  
20 metal cables that they are wrapping around the trees,  
21 just the sheer size alone would be good reason to have  
22 fewer of them. That operator was taking some time to  
23 look around and decide just where he should attach the  
24 choker and he was looking to see which way the tree  
25 would swing after it was being winched.

1                   I believe it was the week after the  
2           filming Mr. Hynard took me out to his management unit  
3           to introduce me to a lot of the selection logging that  
4           they are doing in that area and we visited this  
5           particular landing that the machinery is moving towards  
6           right now, and this is the clear type of landing that I  
7           referred to earlier. It would be used a number of  
8           times and used also during the progression of that  
9           forest for various different -- as a staging ground for  
10          various different work undertaken there.

11                  This chap has a particular responsibility  
12          of deciding where these logs get cut. These are the  
13          type of logs that Mr. Hynard was referring to that are  
14          particularly high value. He is sounding the log to  
15          determine whether it is solid and he doesn't plan to  
16          cut it with that axe, he is just marking for a chain  
17          saw operator.

18                  This is a typical machine used on a  
19          landing to sort the logs by grade and to assist the  
20          cutter in making the different products and this was  
21          the normal activity that was going on in that yard  
22          during the few hours that the cameraman spent there.

23                  This is a gentleman here operating a  
24          self-loading truck and that noise was the hydraulics.  
25          The unit is being probably strained to its upper

1 limits. This worker is securing the load for transport  
2 for safety reasons on the woods road and on the public  
3 roads.

4 It is interesting that the cameraman - I  
5 guess because I was not with him and Mr. Hynard let him  
6 do his own thing - he filmed all the things that were  
7 interesting to him not having spent any time on this  
8 type of an operation.

9 This is a truckload of logs leaving that  
10 landing and this road is quite a good road and would be  
11 used over and over again but I believe, Peter, only in  
12 the winter?

13 MR. HYNARD: (nodding affirmatively)

14 MR. OLDFORD: It is a winter road. Would  
15 that be passable at all in the summer?

16 MR. HYNARD: Not at all.

17 MR. OLDFORD: When we were driving in  
18 this road the week later we had to be radio controlled  
19 so that we wouldn't meet one of these trucks on the way  
20 out. You can just imagine, there is not much room for  
21 the truck to get off to the side -- as a matter of  
22 fact, the truck won't get off to the side.

23 Now, the cameraman, when he was on this  
24 site, observed something that was really of interest to  
25 him, right in the area of that logging there were quite



1 a number of deer, maybe in the order of... Peter?

2 MR. HYNARD: There would be at least 50  
3 or 100 right around the logging operation.

4 MR. OLDFORD: And they were there, Peter  
5 was telling me, to forage on the tops and the buds of  
6 the trees that had been felled. I guess the zoom lens  
7 would -- this is an interesting feature, while they  
8 were moving along Highway 118, Peter decided to take  
9 the cameraman in to show him the way that logging was  
10 years and years ago, and a lot of people haven't seen  
11 much of this and there is almost none of it left. I  
12 guess this guy was cutting the little bit of hardwood  
13 for fuel wood. Is it a regular feature on this chap's  
14 operation?

15 MR. HYNARD: I told you we were a sleepy  
16 little backwater. Yes, this is a normal operation for  
17 him.

18 MR. OLDFORD: The safety standards on  
19 this type of an operation would not compare at all with  
20 what you would expect normally. The owner was quite  
21 interested in the camera crew.

22 Now we will move to full-tree logging in  
23 the boreal forest. This is a feller-buncher and you  
24 can see -- I'll stop -- oh, I stopped it. As you look  
25 to the left of the machine you will see a lot of

1 residual trees and those are the trees that are being  
2 protected to form the next stand and that is up in the  
3 back there.

4                   You can see the amount of trees that are  
5 being left right here (indicating), and this is a  
6 wide-tired skidder operating during the summer on a wet  
7 lowland site. And this is the type of logging, exactly  
8 the type of logging that we looked at in those two  
9 photos, the second two photos a little while ago. And  
10 this is a pretty standard way of bringing a tow of wood  
11 to a skidway and this is what a skidway is. And the  
12 more wood that you pile on top of -- one load on top of  
13 another, the less area that you tie up with the pile  
14 and the less the delimeter is going to move around.

15                   This is the mechanical delimeter, and this  
16 is the function that we now have avoided as a result of  
17 mechanical delimeters. This job used to be done using  
18 chain saws.

19                   Now, this machine is the coring  
20 feller-forwarder, the biggest machine that we have  
21 talked about weighing in the approximately 40-ton range  
22 and able to carry about 35 tons of trees.

23                   Now, you wouldn't put this machine on a  
24 soft site or a site that had a high water table, like a  
25 wet clay or organic site, unless it was in the frozen

1 condition and then this machine can work just about  
2 anywhere, unless slope is an impediment.

3 We spoke about sawheads and this is how a  
4 sawhead works. It is able to collect the number of  
5 trees - and this is the machine that I said if it is  
6 used in full-tree logging we don't leave a lot of slash  
7 on the site - but you will notice that there is some  
8 abrasion, some needles break off, but there is a lot of  
9 wood left in the understorey, shrub wood, et cetera,  
10 and debris left on the site, but not a lot of  
11 merchantable wood.

12 And that is the machine dropping a load  
13 at roadside, and there is no more preparation of the  
14 skidway than what you see right there.

15 I believe this is a feller-buncher. I  
16 will be able to tell you -- no, this is another coring  
17 feller-forwarder picking up a load operating in the  
18 winter. The first one you saw was operating in summer  
19 conditions. And this is the speed that that machine  
20 would normally work at.

21 This is a feller-buncher, a wheeled  
22 feller-buncher. We saw one working a little earlier,  
23 that one was on tracks. This is working on the  
24 Canadian Forest Products limits in the Ignace District,  
25 and you can see the way that it creates a bunch of full

1 trees. And this is a narrow-tired skidder that is used  
2 to forward those full trees, one of the units that  
3 could be used. You can have a variety of machinery,  
4 you can have a skidder with a grapple, a skidder with a  
5 cable, you can have a forwarder, they tend to be a  
6 little bigger than skidders, and this fellow will get  
7 the cable around that load by poking it with that piece  
8 of wire that he has in his hand.

9 Now, just watch this winching process. I  
10 believe this is where -- no, I guess we won't see it.  
11 This is a delimber, another delimber, delimbing right  
12 at the site where that skidder was working. And that  
13 is just what a skidway is right there, like there is no  
14 preparation of the ground very often at all. And that  
15 is the way the delimber picks up the tree, Mr. Freidin,  
16 in case you don't get a chance to go out and see one  
17 operating.

18 Now, this is a different machine and we  
19 are moving into another phase of the operation.  
20 Assuming that you had trees at roadside, either brought  
21 out in tree-length -- by the tree-length logging method  
22 or at roadside brought out by the full-tree logging  
23 method and already delimbed, this machine is a slasher  
24 and it is a pretty crude term, but what it actually  
25 does is take those long tree lengths and cut them very



1       efficiently into eight-foot lengths.

2               All of these features are intertwined in  
3       various logging methods and that is what we are trying  
4       to show right here, and one can easily see why this is  
5       more effective than an operator trying to do the same  
6       action with a chain saw.

7               And this is the loading of shortwood on  
8       to a tractor-trailer in preparation for transport to  
9       the mill. And you can see that in all of this  
10      mechanical logging, the more mechanized logging, the  
11      operator is very securely located and they would rather  
12      be in there on a cold day like that than outside. And  
13      this is the bumper-type of apparatus that they can use  
14      if they don't have a large load aligner.

15              Now we move on to the -- I believe the  
16      only mechanized shortwood operation left in Ontario,  
17      and this is that multi-functional machine that I spoke  
18      about yesterday, with one boom doing the cutting and  
19      the delimbing happening on a delimbing tower which also  
20      produces the eight-foot poles that are stacked into the  
21      back of that rack from the bottom.

22              Now, the feature about this machine is  
23      this machine performs all of the functions; the  
24      felling, the delimbing, the slashing or cutting into  
25      lengths and also the transport to roadside. And as you

1 can see, the branches, tops, cones are left right on  
2 the site but they are left in sort of little piles  
3 depending on where the machine is working. One might  
4 get the impression that they are left equally  
5 distributed.

6 And that is the actual speed of travel  
7 and that machine would unload at roadside right on the  
8 edge of the road or adjacent to the road with no  
9 preparation of landing or skidway.

10 And that concludes the 25-minute video.  
11 That is what it is all about, getting the wood  
12 harvested properly in the most effective and safe  
13 manner and delivering it to the mills like this mill in  
14 Dryden, Ontario.

15 THE CHAIRMAN: Mr. Freidin, I cannot  
16 recall what we did with the videos as exhibits, or is  
17 the tape going to be available or...

18 MR. FREIDIN: Yes, I think the tape is  
19 going to be marked as an exhibit.

20 THE CHAIRMAN: Very well. Exhibit 446 --  
21 447 rather.

22 ---EXHIBIT NO. 447: Tape of video presentation on  
23 March 3rd, 1989 re: Logging  
24 Methods in Ontario produced by  
MNR.

25 MR. FREIDIN: I think if I move quickly

1 we are going to finish.

2 Q. Mr. Oldford, how long has the  
3 full-tree logging method been a logging method in the  
4 area of the undertaking?

5 MR. OLDFORD: A. Well, my earliest  
6 recollection of the full-tree logging method goes back  
7 to 1974 when I first saw the operations of J.E. Martel  
8 Company in Chapleau and they were using the full-tree  
9 logging method at that time.

10 And in speaking to Mr. Martel, he tells  
11 me that they got into the full-tree logging in the  
12 latter part of the 19 -- sorry, in the latter part of  
13 1970 and that they have continually expanded their  
14 operations toward full-tree since then and that right  
15 now, that one company in particular, would be a hundred  
16 per cent full-tree.

17 And the only reason that that company  
18 would own a chain saw, in Mr. Martel's words, was to  
19 cut off a tree that sort of got in the way.

20 Q. And could you advise in a general way  
21 on what type of sites has full-tree harvesting been  
22 used on in the past 10 to 20 years?

23 A. Where I have observed it in Ontario,  
24 it has been across the full range of sites, Mr.  
25 Freidin. It is very prevalent in the lowland spruce

1 sites. I have seen it on the upland sites, the sandy  
2 flats around Gogama, Chapleau, in western Ontario, on  
3 the deep organic soils, on areas where there is lots of  
4 rock.

5 As a matter of fact, wheeled skidders,  
6 rubber-tired skidders are especially able to manoeuver  
7 around rocky terrain and full-tree logging has been  
8 used right across all the sites.

9 I would like to make one other point and;  
10 that is, that the full-tree logging is practically a  
11 must -- or the mechanical stripping of branches today  
12 is practically a must and the full-tree logging is the  
13 logging method that affords us that without having to  
14 put workers at that task with chain saws.

15 Q. Now, in the material in the witness  
16 statement there is reference to a machine called a  
17 forwarder, and how does that differ from the machines  
18 that we have seen on the video? I don't think we saw a  
19 forwarder in the video.

20 A. No, come to think of it we didn't.  
21 There is not much difference in a forwarder. The  
22 skidders that you saw were all cable skidders. You can  
23 have a skidder with a grapple and that is just a  
24 variety of skidder and a forwarder is sort of like a  
25 big skidder. I can just sort of draw you a little



1 sketch, if you would like.

2 Q. Okay.

3 A. And I guess that is like the machines  
4 we have seen so far. That is the -- that is a cable  
5 skidder. You can take this exact same skidder and put  
6 a grapple arrangement on it right there and it becomes  
7 a grapple skidder.

8 And when I think of forwarders I think of  
9 maybe the new forwarder that Spruce Falls was using, I  
10 believe it is an Ardco, and it is quite a bit larger  
11 machine and it has a double tire apparatus behind it  
12 with a huge unit almost like an inverted clam and a  
13 loader.

14 So it would pick up bunches of wood, lay  
15 the butts in here and then this would close enabling  
16 this machine to forward to roadside. And Spruce Falls  
17 have this large forwarder equipped with high flotation  
18 tires and it is just amazing the sites that it can  
19 traverse without any site damage whatsoever.

20 But that is really what a forwarder is.

21 MR. MARTEL: Full-tree?

22 MR. OLDFORD: Pardon?

23 MR. MARTEL: Full-tree?

24 MR. OLDFORD: Full-tree, and I am  
25 assuming all of this would be in full-tree. You could

1 use the skidder, and they are very commonly used in  
2 tree-length. You wouldn't use a grapple skidder in  
3 tree-length because the machine would have to move  
4 around picking up individual trees.

5 A grapple skidder would pick up one bunch  
6 of trees and if it didn't have a full load it would  
7 sort of work them over and grab another bunch, but this  
8 machine here is committed to a highly mechanized  
9 operation where it can probably pull up like two or  
10 three or four bunches.

11 I don't know what the capacity of this  
12 machine is to pull to roadside, probably in the order  
13 of 10 cubic meters, maybe eight to 10 cubic metres  
14 which is three to four cords.

15 THE CHAIRMAN: Is that it?

16 MR. FREIDIN: We might as well mark it,  
17 Mr. Chairman.

18 THE CHAIRMAN: Exhibit 448.

19 MR. FREIDIN: Can we just perhaps call it  
20 forwarder and grapple skidder.

21 ---EXHIBIT NO. 448: Diagram depicting forwarder and  
22 grapple skidder.

23 MR. FREIDIN: Q. Now, we have some  
24 evidence about the shortwood logging method and I think  
25 some of the slides that you showed showed the

1 harvesting by a coring shortwood harvester and you  
2 indicated that there aren't that many machines around  
3 any more because they were getting old.

4 Could you advise: Why haven't they been  
5 replaced; in other words, with another coring shortwood  
6 harvester?

7 MR. OLDFORD: A. Well, I would rather  
8 defer that question to Corey. I don't know why they  
9 didn't continue with another generation of that  
10 machine, but I can surmise why, even if they had  
11 continued, it mightn't be purchased in Ontario, and  
12 that would be largely because -- for probably the best  
13 product use in Ontario we like to see a lot of the  
14 tree-length go to saw mills and get turned into lumber  
15 with the chips, the residues and the tops going to pulp  
16 mills to supply a lot of their furnish.

17 Now, the exception is in the case of pulp  
18 mills that have limits that are not hooked up with a  
19 saw mill or in the case of timber that is too small to  
20 go through a saw mill. In that case there could be  
21 some use for a shortwood mechanized harvester but, for  
22 the most part, the large companies - and I would use as  
23 a prime example E. B. Eddy Forest Products - they have  
24 a large pulp mill, pulp and paper mill at Espanola.  
25 They also have a saw mill at Nairne Centre. Every tree

1       that they cut is cut by either the tree-length method  
2       or the full-tree method.

3                       Those tree lengths go in full length  
4       form - I don't know of any that go in log-length form -  
5       they go in full-length form to the saw mill where they  
6       are cut into logs and the logs then go through the saw  
7       mill with the residue chips and the tops and sometimes  
8       some small wood is trucked in in the eight-foot form,  
9       but that is the reason for them probably not being  
10      interested at all in a shortwood logging method.

11                      Q.   What is it about the shortwood  
12      logging method which would affect the ability to, in  
13      fact, use the tree for saw log purposes and then have  
14      chips left over which could be used for pulp?

15                      A.   Well, other than a couple of the  
16      smaller shortwood harvesters that I know exist on the  
17      east coast, that big coring shortwood harvester sheared  
18      the wood and in shearing the wood it would cause a lot  
19      of butt shatter. That would be one problem right  
20      there.

21                      I guess the other problem is who would  
22      want eight-foot wood to turn it into lumber. The most  
23      you could produce is studs, 2 by 4, 2 by 6 studs and  
24      anybody that is in the stud business today in Ontario  
25      is in a very difficult business, indeed. The price has



1 just fallen right out of that product.

2 Q. Could you turn to page 167 of the  
3 witness statement, please, which is Exhibit 416A. I  
4 direct you to the first full paragraph that indicates  
5 that:

6 "A good deal of emphasis is placed on  
7 protection of the logging site when  
8 selecting or modifying logging methods.  
9 The reasons are twofold: To minimize  
10 site damage and to ensure that follow-up  
11 renewal activities will be effective  
12 and economical. This is especially the  
13 case on those areas where industry has  
14 resumed responsibility for renewal  
15 operations through the forest management  
16 agreement program."

17 And in the second line, Mr. Oldford, you refer to  
18 modifying logging methods.

19 Yesterday I think you indicated that by  
20 modifying logging methods you meant modifying the  
21 equipment, and I just wanted to be sure: Does that  
22 clarification yesterday apply here, that to be clear,  
23 would be modifying logging equipment?

24 A. Yes, and I think I have gone through  
25 all of the different ways of modifying it and you can

1       only rehash that so often.

2                       Q.   Okay.  Now, there is an indication in  
3       this paragraph that there is an emphasis placed on  
4       protection in the manners indicated especially where  
5       the industry has assumed responsibility for renewal  
6       operations through the forest management agreement  
7       program.

8                       Does that mean that there is no control  
9       or less control on Crown management units?

10                      A.  No, it wasn't intended to mean that  
11       at all, although I guess that needs to be explained.

12                      On the Crown units the operations are  
13       generally smaller, the operators are smaller, there is  
14       a very close relationship between the Crown Ministry  
15       forester and the operators and I think that's been  
16       evident in the evidence that you have heard from Mr.  
17       Hynard.

18                      Over time an arrangement, an  
19       accommodation has developed between the unit staff and  
20       the industry to seek and find ways of harvesting in  
21       such a way, using logging methods in such a way that  
22       there is minimal, if any, site damage.  And that's in  
23       the interest of the unit forester very much so because  
24       he is responsible for the renewal on that unit.

25                      There are many ways that that's

1 accomplished. One method that I used when I was an  
2 unit forester - and we were doing this back in the  
3 mid-70s - is if there was some particular reason why a  
4 site couldn't be harvested in a certain time in the  
5 year we didn't issue a cutting approval.

6 Even if we had issued a large cutting  
7 approval with a whole bunch of different sites in it,  
8 we would have an understanding with the licensee as to  
9 when he operated on what we call the summer ground, the  
10 higher ground, and when he would move to the lower  
11 ground.

12 And also on those units if, for instance,  
13 an operator was operating on the lower ground, and I  
14 can think of a strip cut that we did in Bordeaux  
15 Township southwest of Chapleau, he was operating - that  
16 was Mr. Oliver Korpella - was operating in a large  
17 strip cut there and I think spring came on a little bit  
18 early - and I see some member of the Board knows Mr.  
19 Korpella, I guess - spring came on very early and he  
20 had to move out of that site and I think he went back  
21 the next year and finished that. So those sorts of  
22 things can be accomplished.

23 Q. Can you advise: Why the specific  
24 reference in that particular paragraph to the forest  
25 management agreements?

1                   A. Yes, I can and I feel quite strongly  
2 about that. I believe the beginning of the FMAs in  
3 Ontario was one of the major keys to our successful  
4 timber management and forest management program, that  
5 the integration of the harvest and renewal activities  
6 was instrumental to that success and that there have  
7 been considerable spinoffs ever since.

8                   I think the concept of having to form  
9 that union between harvest and renewal is a crucial  
10 concept and I think it is a concept, from my position  
11 today, that we are going to work on even further in the  
12 future, I think it needs to be even made stronger.

13                  With the advent of the FMA program we  
14 improved our timber management tremendously in the  
15 province through the industries' involvement in timber  
16 management planning and in renewal and to get the  
17 industry to take on those responsibilities, I viewed it  
18 at the time, to be a major breakthrough. I was on the  
19 original negotiations with one of the five FMAs, E. B.  
20 Eddy Forest Products Limited.

21                  I believe the evidence that I have led on  
22 harvesting has shown the need to have flexibility in  
23 harvesting methods and logging methods and that the  
24 ways and means are at the disposal of the people that  
25 use those logging methods to apply that flexibility to



1 aid the renewal and forest management program.

2 And what better way for them to apply  
3 that flexibility, than if they are given responsibility  
4 for renewal. It was so obvious, and it has worked so  
5 well for us.

6 MR. FREIDIN: Mr. Chairman, those are my  
7 questions of Mr. Oldford.

8 THE CHAIRMAN: Thank you, Mr. Freidin.  
9 Thank you, panel.

10 I guess we can adjourn for the day and we  
11 will return on Monday at 1:00 p.m. And who will you be  
12 examining at that time, Mr. Freidin?

13 MR. FREIDIN: I believe it will be Dr.  
14 Allin.

15 THE CHAIRMAN: Very well. Have a good  
16 weekend.

17 Thank you.

18 ---Whereupon the hearing adjourned at 1:27 p.m., to be  
19 reconvened on Monday, March 6th, 1989, commencing at  
20 1:00 p.m.

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